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COMPILATION OF SELECTED FEDERAL LEGISLATION RELATING TO JOB TRAINING

PREPARED FOR THE

SUBCOMMITTEE ON EMPLOYMENT AND PRODUCTIVITY

OF THE

COMMITTEE ON LABOR AND HUMAN RESOURCES

UNITED STATES SENATE

AND THE

SUBCOMMITTEE ON EMPLOYMENT OPPORTUNITIES

OF THE

COMMITTEE ON EDUCATION AND LABOR

HOUSE OF REPRESENTATIVES

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CONTENTS

	Page
JOB TRAINING PARTNERSHIP ACT, AS AMENDED	1
Title I—Job Training Partnership	7
Part A—Service Delivery Area	7
Part B—Additional State Responsibilities	17
Part C—Program Requirements for Service Delivery Areas	23
Part D—Federal and Fiscal Administrative Provisions	27
Part E—Miscellaneous Provisions	35
Title II—Training Services for the Disadvantaged	39
Part A—Adult and Youth Programs	39
Part B—Summer Youth Employment and Training Programs	45
Title III—Employment and Training Assistance for Dislocated Workers	47
Title IV—Federally Administered Programs	51
Part A—Employment and Training Programs for Native Americans and Migrant and Seasonal Farmworkers	51
Part B—Job Corps	53
Part C—Veterans' Employment Programs	64
Part D—National Activities	65
Part E—Labor Market Information	67
Part F—National Commission for Employment Policy	70
Part G—Training to Fulfill Affirmative Action Obligations	74
Title V—Miscellaneous Provisions	76
WAGNER-PEYSER ACT, AS AMENDED	77
NATIONAL APPRENTICESHIP ACT	84
VOCATIONAL EDUCATION ACT OF 1963, AS AMENDED	85
Title I—Vocational Education	85
Part A—State Vocational Education Programs	85
Subpart 1—General Provisions	86
Subpart 2—Basic Grant	106
Subpart 3—Program Improvement and Supportive Services	110
Subpart 4—Special Programs for the Disadvantaged	115
Subpart 5—Consumer and Homemaking Education	115
Part B—National Programs	116
Subpart 1—General Provisions	116
Subpart 2—Programs of National Significance	121
Subpart 3—Bilingual Vocational Training	126
Subpart 4—Emergency Assistance for Remodeling and Renovation of Vocational Education Facilities	130
Part C—Definitions	132
OLDER AMERICANS ACT OF 1965, AS AMENDED	136
Title V—Community Service Employment for Older Americans	136
INTERNAL REVENUE CODE OF 1954, AS AMENDED	144
Section 40—Expenses of Work Incentive Programs	144
Subpart C—Rules for Computing Credit for Expenses of Work Incentive Programs	144
Section 44B—Credit for Employment of Certain New Employees	151
Subpart D—Rules for Computing Credit for Employment of Certain New Employees	151

	Page
SOCIAL SECURITY ACT, AS AMENDED	162
Title IV—Grants to States for Aid and Services to Needy Families with Children and for Child-Welfare Services	162
Part A—Aid to Families with Dependent Children	162
Section 402—State Plans for Aid and Services to Needy Families with Children	162
Section 409—Community Work Experience Programs	167
Section 414—Work Supplementation Program	169
Part C—Work Incentive Program for Recipients of Aid under State Plan Approved under Part A	171
Title IX—Miscellaneous Provisions Relating to Employment Security	181
FOOD STAMP ACT OF 1977, AS AMENDED	187
Section 20—Workfare	187

JOB TRAINING PARTNERSHIP ACT[1]

AN ACT TO PROVIDE FOR A JOB TRAINING PROGRAM AND FOR OTHER PURPOSES

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE; TABLE OF CONTENTS

SECTION 1. This Act may be cited as the "Job Training Partnership Act".

TABLE OF CONTENTS

Sec. 1. Short title; table of contents.
Sec. 2. Statement of purpose.
Sec. 3. Authorization of appropriations.
Sec. 4. Definitions.

TITLE I—JOB TRAINING PARTNERSHIP

PART A—SERVICE DELIVERY SYSTEM

Sec. 101. Establishment of service delivery areas.
Sec. 102. Establishment of private industry council.
Sec. 103. Functions of private industry council.
Sec. 104. Job training plan.
Sec. 105. Review and approval of plan.
Sec. 106. Performance standards.
Sec. 107. Selection of service providers.
Sec. 108. Limitation on certain costs.

PART B—ADDITIONAL STATE RESPONSIBILITIES

Sec. 121. Governor's coordination and special services plan.
Sec. 122. State job training coordinating council.
Sec. 123. State education coordination and grants.
Sec. 124. Training programs for older individuals.
Sec. 125. State labor market information programs.
Sec. 126. Authority of State legislature.
Sec. 127. Interstate agreements.

PART C—PROGRAM REQUIREMENTS FOR SERVICE DELIVERY SYSTEM

Sec. 141. General program requirements.
Sec. 142. Benefits.
Sec. 143. Labor standards.
Sec. 144. Grievance procedure.
Sec. 145. Prohibition against Federal control of education.

PART D—FEDERAL AND FISCAL ADMINISTRATIVE PROVISIONS

Sec. 161. Program year.
Sec. 162. Prompt allocation of funds.
Sec. 163. Monitoring.
Sec. 164. Fiscal controls; sanctions.

[1] Public Law 97-300 as amended by Public Law 97-404.

Sec. 165. Reports, recordkeeping, and investigations.
Sec. 166. Administrative adjudication.
Sec. 167. Nondiscrimination.
Sec. 168. Judicial review.
Sec. 169. Administrative provisions.
Sec. 170. Utilization of services and facilities.
Sec. 171. Obligational authority.

PART E—MISCELLANEOUS PROVISIONS

Sec. 181. Transition.
Sec. 182. Criminal provisions.
Sec. 183. Reference.
Sec. 184. Repealers.

TITLE II—TRAINING SERVICES FOR THE DISADVANTAGED

PART A—ADULT AND YOUTH PROGRAMS

Sec. 201. Allotment.
Sec. 202. Within State allocation.
Sec. 203. Eligibility for services.
Sec. 204. Use of funds.
Sec. 205. Exemplary youth programs.

PART B—SUMMER YOUTH EMPLOYMENT AND TRAINING PROGRAMS

Sec. 251. Authorization of appropriations; allotment and allocation.
Sec. 252. Use of funds.
Sec. 253. Limitations.
Sec. 254. Applicable provisions.

TITLE III—EMPLOYMENT AND TRAINING ASSISTANCE FOR DISLOCATED WORKERS

Sec. 301. Allocation of funds.
Sec. 302. Identication of dislocated workers.
Sec. 303. Authorized activities.
Sec. 304. Matching requirement.
Sec. 305. Program review.
Sec. 306. Consultation with labor organizations.
Sec. 307. Limitations.
Sec. 308. State plans; coordination with other programs.

TITLE IV--FEDERALLY ADMINISTERED PROGRAMS

PART A—EMPLOYMENT AND TRAINING PROGRAMS FOR NATIVE AMERICANS AND MIGRANT AND SEASONAL FARMWORKERS

Sec. 401. Native American programs.
Sec. 402. Migrant and seasonal farmworker programs.

PART B—JOB CORPS

Sec. 421. Statement of purpose.
Sec. 422. Establishment of the Job Corps.
Sec. 423. Individuals eligible for the Job Corps.
Sec. 424. Screening and selection of applicants: general provisions.
Sec. 425. Screening and selection: special limitations.
Sec. 426. Enrollment and assignment.
Sec. 427. Job Corps centers.
Sec. 428. Program activities.
Sec. 429. Allowances and support.
Sec. 430. Standards of conduct.
Sec. 431. Community participation.
Sec. 432. Counseling and job placement.
Sec. 433. Experimental and developmental projects and coordination with other programs.
Sec. 434. Advisory boards and committees.
Sec. 435. Participation of the States.

Sec. 436. Application of provisions of Federal law.
Sec. 437. Special provisions.
Sec. 438. General provisions.
Sec. 439. Donations.

PART C—VETERANS' EMPLOYMENT PROGRAMS

Sec. 441. Programs authorized.

PART D—NATIONAL ACTIVITIES

Sec. 451. Multistate programs.
Sec. 452. Research and demonstration.
Sec. 453. Pilot projects.
Sec. 454. Evaluation.
Sec. 455. Training and technical assistance.

PART E—LABOR MARKET INFORMATION

Sec. 461. Labor market information; availability of funds.
Sec. 462. Cooperative labor market information program.
Sec. 463. Special Federal responsibilities.
Sec. 464. National Occupational Information Coordinating Committee.
Sec. 465. Job bank program.

PART F—NATIONAL COMMISSION FOR EMPLOYMENT POLICY

Sec. 471. Statement of purpose.
Sec. 472. Commission established.
Sec. 473. Functions of the Commission.
Sec. 474. Administrative provisions.
Sec. 475. Reports.

PART G—TRAINING TO FULFILL AFFIRMATIVE ACTION OBLIGATIONS

Sec. 481. Affirmative action.

TITLE V—MISCELLANEOUS PROVISIONS

Sec. 501. Amendments to the Wagner-Peyser Act.
Sec. 502. Amendments to part C of title IV of the Social Security Act.
Sec. 503. Earnings disregard.
Sec. 504. Enforcement of Military Selective Service Act.

STATEMENT OF PURPOSE

SEC. 2. It is the purpose of this Act to establish programs to prepare youth and unskilled adults for entry into the labor force and to afford job training to those economically disadvantaged individuals and other individuals facing serious barriers to employment, who are in special need of such training to obtain productive employment.

AUTHORIZATION OF APPROPRIATIONS

SEC. 3. (a)(1) There are authorized to be appropriated to carry out part A of title II and title IV (other than part B of such title) such sums as may be necessary for fiscal year 1983 and for each succeeding fiscal year.

(2) From the amount appropriated pursuant to paragraph (1) for any fiscal year, an amount equal to not more than 7 percent of the total amount appropriated pursuant to this section shall be available to carry out parts A, C, D, E, F, and G of title IV.

(3) Of the amount so reserved under paragraph (2)—

(A) 5 percent shall be available for part C of title IV, and

(B) $2,000,000 shall be available for part F of title IV.

(b) There are authorized to be appropriated to carry out part B of title II such sums as may be necessary for fiscal year 1983 and for each succeeding fiscal year.

(c) There are authorized to be appropriated to carry out title III such sums as may be necessary for fiscal year 1983 and for each succeeding fiscal year.

(d) There are authorized to be appropriated $618,000,000 for fiscal year 1983, and such sums as may be necessary for each succeeding fiscal year, to carry out part B of title IV of this Act.

(e) The authorizations of appropriations contained in this section are subject to the program year provisions of section 161.

DEFINITIONS

SEC. 4. For the purposes of this Act, the following definitions apply:

(1) The term "academic credit" means credit for education, training, or work experience applicable toward a secondary school diploma, a postsecondary degree, or an accredited certificate of completion, consistent with applicable State law and regulation and the requirements of an accredited educational agency or institution in a State.

(2) The term "administrative entity" means the entity designated to administer a job training plan under section 103(b)(1)(B).

(3) The term "area of substantial unemployment" means any area of sufficient size and scope to sustain a program under part A of title II of this Act and which has an average rate of unemployment of at least 6.5 percent for the most recent twelve months as determined by the Secretary. Determinations of areas of substantial unemployment shall be made once each fiscal year.

(4) The term "chief elected official" includes—

(A) in the case of a State, the Governor;

(B) in the District of Columbia, the mayor; and

(C) in the case of a service delivery area designated under section 101(a)(4)(A)(iii), the governing body.

(5) The term "community-based organizations" means private nonprofit organizations which are representative of communities or significant segments of communities and which provide job training services (for example, Opportunities Industrialization Centers, the National Urban League, SER-Jobs for Progress, United Way of America, Mainstream, the National Puerto Rican Forum, National Council of La Raza, 70,001, Jobs for Youth, organizations operating career intern programs, neighborhood groups and organizations, community action agencies, community development corporations, vocational rehabilitation organizations, rehabilitation facilities (as defined in section 7(10) of the Rehabilitation Act of 1973), agencies serving youth, agencies serving the handicapped, agencies serving displaced homemakers, union-related organizations, and employer-related nonprofit organizations), and organizations serving nonreservation Indians (including the National Urban Indian Council), as well as tribal governments and Native Alaskan groups.

(6) Except as otherwise provided therein, the term "council" means the private industry council established under section 102.

(7) The term "economic development agencies" includes local planning and zoning commissions or boards, community development agencies, and other local agencies and institutions responsible for regulating, promoting, or assisting in local economic development.

(8) The term "economically disadvantaged" means an individual who (A) receives, or is a member of a family which receives, cash welfare payments under a Federal, State, or local welfare program; (B) has, or is a member of a family which has, received a total family income for the six-month period prior to application for the program involved (exclusive of unemployment compensation, child support payments, and welfare payments) which, in relation to family size, was not in excess of the higher of (i) the poverty level determined in accordance with criteria etablished by the Director of the Office of Management and Budget, or (ii) 70 percent of the lower living standard income level; (C) is receiving food stamps pursuant to the Food Stamp Act of 1977; (D) is a foster child on behalf of whom State or local government payments are made; or (E) in cases permitted by regulations of the Secretary, is an adult handicapped individual whose own income meets the requirements of clause (A) or (B), but who is a member of a family whose income does not meet such requirements.

(9) The term "Governor" means the chief executive of any State.

(10) The term "handicapped individual" means any individual who has a physical or mental disability which for such individual constitutes or results in a substantial handicap to employment.

(11) The term "Hawaiian native" means any individual any of whose ancestors were natives, prior to 1778, of the area which now comprises the State of Hawaii.

(12) The term "institution of higher education" means any institution of higher education as that term is defined in section 1201(a) of the Higher Education Act of 1965.

(13) The term "labor market area" means an economically integrated geographic area within which individuals can reside and find employment within a reasonable distance or can readily change employment without changing their place of residence. Such areas shall be identified in accordance with criteria used by the Bureau of Labor Statistics of the Department of Labor in defining such areas or similar criteria established by a Governor.

(14) The term "local educational agency" means such an agency as defined in section 195(10) of the Vocational Education Act of 1963.

(15) The term "low-income level" means $7,000 with respect to income in 1969, and for any later year means that amount which bears the same relationship to $7,000 as the Consumer Price Index for that year bears to the Consumer Price Index for 1969, rounded to the nearest $1,000.

(16) The term "lower living standard income level" means that income level (adjusted for regional, metropolitan, urban, and rural differences and family size) determined annually by the Secretary based on the most recent "lower living family budget" issued by the Secretary.

(17) The term "offender" means any adult or juvenile who is or has been subject to any stage of the criminal justice process for whom services under this Act may be beneficial or who requires assistance in overcoming artificial barriers to employment resulting from a record of arrest or conviction.

(18) The term "postsecondary institution" means an institution of higher education as that term is defined in section 481(a)(1) of the Higher Education Act of 1965.

(19) The term "private sector" means, for purposes of the State job training councils and private industry councils, persons who are owners, chief executives or chief operating officers of private for-profit employers and major nongovernmental employers, such as health and educational institutions or other executives of such employers who have substantial management or policy responsibility.

(20) The term "public assistance" means Federal, State, or local government cash payments for which eligibility is determined by a needs or income test.

(21) The term "Secretary" means the Secretary of Labor.

(22) The term "State" means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Northern Mariana Islands, American Samoa, and the Trust Territory of the Pacific Islands.

(23) The term "State educational agency" means such an agency as defined in section 195(11) of the Vocational Education Act of 1963.

(24) The term "supportive services" means services which are necessary to enable an individual eligible for training under this Act, but who cannot afford to pay for such services, to participate in a training program funded under this Act. Such supportive services may include transportation, health care, special services and materials for the handicapped, child care, meals, temporary shelter, financial counseling, and other reasonable expenses required for participation in the training program and may be provided in-kind or through cash assistance.

(25) The term "unemployed individuals" means individuals who are without jobs and who want and are available for work. The determination of whether individuals are without jobs shall be made in accordance with the criteria used by the Bureau of Labor Statistics of the Department of Labor in defining individuals as unemployed.

(26) The term "unit of general local government" means any general purpose political subdivision of a State which has the power to levy taxes and spend funds, as well as general corporate and police powers.

(27)(A) The term "veteran" means an individual who served in the active military, naval, or air service, and who was discharged or released therefrom under conditions other than dishonorable.

(B) The term "disabled veteran" means (i) a veteran who is entitled to compensation under laws administered by the Veterans' Administration, or (ii) an individual who was discharged or released from active duty because of service-connected disability.

(28) The term "vocational education" has the meaning provided in section 195(1) of the Vocational Education Act of 1963.

TITLE I—JOB TRAINING PARTNERSHIP

PART A—SERVICE DELIVERY SYSTEM

ESTABLISHMENT OF SERVICE DELIVERY AREAS

SEC. 101. (a)(1) The Governor shall, after receiving the proposal of the State job training coordinating council, publish a proposed designation of service delivery areas for the State each of which—

(A) is comprised of the State or one or more units of general local government;

(B) will promote effective delivery of job training services; and

(C)(i) is consistent with labor market areas or standard metropolitan statistical areas, but this clause shall not be construed to require designation of an entire labor market area; or

(ii) is consistent with areas in which related services are provided under other State or Federal programs.

(2) The Council shall include in its proposal a written explanation of the reasons for designating each service delivery area.

(3) Units of general local government (and combinations thereof), business organizations, and other affected persons or organizations shall be given an opportunity to comment on the proposed designation of service delivery areas and to request revisions thereof.

(4)(A) The Governor shall approve any request to be a service delivery area from—

(i) any unit of general local government with a population of 200,000 or more;

(ii) any consortium of contiguous units of general local government with an aggregate population of 200,000 or more which serves a substantial part of a labor market area; and

(iii) any concentrated employment program grantee for a rural area which served as a prime sponsor under the Comprehensive Employment and Training Act.

(B) The Governor may approve a request to be a service delivery area from any unit of general local government or consortium of contiguous units of general local government, without regard to population, which serves a substantial portion of a labor market area.

(C) If the Governor denies a request submitted under subparagraph (A) and the entity making such request alleges that the decision of the Governor is contrary to the provisions of this section, such entity may appeal the decision to the Secretary, who shall make a final decision within 30 days after such appeal is received.

(b) The Governor shall make a final designation of service delivery areas within the State. Before making a final designation of service delivery areas for the State, the Governor shall review the comments submitted under subsection (a)(3) and requests submitted under subsection (a)(4).

(c)(1) In accordance with subsection (a), the Governor may redesignate service delivery areas no more frequently than every two years. Such redesignations shall be made not later than 4 months before the beginning of a program year.

(2) Subject to paragraph (1), the Governor shall make such a redesignation if a petition to do so is filed by an entity specified in subsection (a)(4)(A).

(3) The provisions of this subsection are subject to section 105(c).

ESTABLISHMENT OF PRIVATE INDUSTRY COUNCIL

SEC. 102. (a) There shall be a private industry council for every service delivery area established under section 101, to be selected in accordance with this subsection. Each council shall consist of—

(1) representatives of the private sector, who shall constitute a majority of the membership of the council and who shall be owners of business concerns, chief executives or chief operating officers of nongovernmental employers, or other private sector executives who have substantial management or policy responsibility; and

(2) representatives of educational agencies (representative of all educational agencies in the service delivery area), organized labor, rehabilitation agencies, community-based organizations, economic development agencies, and the public employment service.

(b) The Chairman of the council shall be selected from among members of the council who are representatives of the private sector.

(c)(1)(A) Private sector representatives on the council shall be selected from among individuals nominated by general purpose business organizations after consulting with, and receiving recommendations from, other business organizations in the service delivery area. The number of such nominations shall be at least 150 percent of the number of individuals to be appointed under subsection (a)(1). Such nominations, and the individuals selected from such nominations, shall reasonably represent the industrial and demographic composition of the business community. Whenever possible, at least one-half of such business and industry representatives shall be representatives of small business, including minority business.

(B) For the purpose of this paragraph, the term—

(i) "general purpose business organizations" means organizations which admit to membership any for-profit business operating within the service delivery area; and

(ii) "small business" means private for-profit enterprises employing 500 or fewer employees.

(2) Education representatives on the council shall be selected from among individuals nominated by local educational agencies, vocational education institutions, institutions of higher education, or general organizations of such agencies or institutions, and by private and proprietary schools or general organizations of such schools, within the service delivery area.

(3) The remaining members of the council shall be selected from individuals recommended by interested organizations. Labor representatives shall be recommended by recognized State and local labor organizations or appropriate building trades councils.

(d)(1) In any case in which there is only one unit of general local government with experience in administering job training programs within the service delivery area, the chief elected official of that unit shall appoint members to the council from the individuals nominated or recommended under subsection (c).

(2) In any case in which there are two or more such units of general local government in the service delivery area, the chief elected officials of such units shall appoint members to the council from the individuals so nominated or recommended in accordance with an agreement entered into by such units of general local government. In the absence of such an agreement, the appointments shall be made by the Governor from the individuals so nominated or recommended.

(e) The initial number of members of the council shall be determined—

(1) by the chief elected official in the case described in subsection (d)(1),

(2) by the chief elected officials in accordance with the agreement in the case described in subsection (d)(2), or

(3) by the Governor in the absence of such agreement.

Thereafter, the number of members of the council shall be determined by the council.

(f) Members shall be appointed for fixed and staggered terms and may serve until their successors are appointed. Any vacancy in the membership of the council shall be filled in the same manner as the original appointment. Any member of the council may be removed for cause in accordance with procedures established by the council.

(g) The Governor shall certify a private industry council if the Governor determines that its composition and appointments are consistent with the provisions of this subsection. Such certification shall be made or denied within 30 days after the date on which a list of members and necessary supporting documentation are submitted to the Governor. When the Governor certifies the council, it shall be convened within 30 days by the official or officials who made the appointments to such council under subsection (d).

(h) In any case in which the service delivery area is a State, the State job training coordinating council or a portion of such council may be reconstituted to meet the requirements of this section.

FUNCTIONS OF PRIVATE INDUSTRY COUNCIL

SEC. 103. (a) It shall be the responsibility of the private industry council to provide policy guidance for, and exercise oversight with respect to, activities under the job training plan for its service delivery area in partnership with the unit or units of general local government within its service delivery area.

(b)(1) The council, in accordance with an agreement or agreements with the appropriate chief elected official or officials specified in subsection (c), shall—

(A) determine procedures for the development of the job training plan, which may provide for the preparation of all or any part of the plan (i) by the council, (ii) by any unit of general local government in the service delivery area, or by an agency thereof, or (iii) by such other methods or institutions as may be provided in such agreement; and

(B) select as a grant recipient and entity to administer the job training plan (which may be separate entities), (i) the council, (ii) a unit of general local government in its service delivery area, or an agency thereof, (iii) a nonprofit private organization or corporation, or (iv) any other agreed upon entity or entities.

(2) The council is authorized to provide oversight of the programs conducted under the job training plan in accordance with procedures established by the council. In order to carry out this paragraph, the council shall have access to such information concerning the operations of such programs as is necessary.

(c) For purposes of subsection (b), the appropriate chief elected official or officials means—

(1) the chief elected official of the sole unit of general local government in the service delivery area,

(2) the individual or individuals selected by the chief elected officials of all units of general local government in such area as their authorized representative, or

(3) in the case of a service delivery area designated under section 101(a)(4)(A)(iii), the representative of the chief elected official for such area (as defined in section 4(4)(C)).

(d) No job training plan prepared under section 104 may be submitted to the Governor unless (1) the plan has been approved by the council and by the appropriate chief elected official or officials specified in subsection (c), and (2) the plan is submitted jointly by the council and such official or officials.

(e) In order to carry out its functions under this Act, the council—

(1) shall, in accordance with the job training plan, prepare and approve a budget for itself, and

(2) may hire staff, incorporate, and solicit and accept contributions and grant funds (from other public and private sources).

(f) As used in this section, the term "oversight" means reviewing, monitoring, and evaluating.

JOB TRAINING PLAN

SEC. 104. (a) No funds appropriated for any fiscal year may be provided to any service delivery area under this Act except pursuant to a job training plan for two program years which is prepared in accordance with section 103 and which meets the requirements of this section.

(b) Each job training plan shall contain—

(1) identification of the entity or entities which will administer the program and be the grant recipient of funds from the State;

(2) a description of the services to be provided, including the estimated duration of service and the estimated training cost per participant;

(3) procedures for identifying and selecting participants and for eligibility determination and verification;

(4) performance goals established in accordance with standards prescribed under section 106;

(5) procedures, consistent with section 107, for selecting service providers which take into account past performance in job training or related activities, fiscal accountability, and ability to meet performance standards;

(6) the budget for two program years and any proposed expenditures for the succeeding two program years, in such detail as is determined necessary by the entity selected to prepare this portion of the plan pursuant to section 103(b)(1)(B) and to meet the requirements of section 108;

(7) a description of methods of complying with the coordination criteria contained in the Governor's coordination and special services plan;

(8) if there is more than one service delivery area in a single labor market area, provisions for coordinating particular aspects of individual service delivery area programs, including—

(A) assessments of needs and problems in the labor market that form the basis for program planning;

(B) provisions for ensuring access by program participants in each service delivery area to skills training and employment opportunities throughout the entire labor market; and

(C) coordinated or joint implementation of job development, placement, and other employer outreach activities;

(9) fiscal control, accounting, audit and debt collection procedures to assure the proper disbursal of, and accounting for, funds received under this title; and

(10) procedures for the preparation and submission of an annual report to the Governor which shall include—

(A) a description of activities conducted during the program year;

(B) characteristics of participants; and

(C) the extent to which the activities exceeded or failed to meet relevant performance standards.

(c) If changes in labor market conditions, funding, or other factors require substantial deviation from an approved job training plan, the private industry council and the appropriate chief elected official or officials (as described in section 103(c)) shall submit a modification of such plan (including modification of the budget under subsection (b)(6)), which shall be subject to review in accordance with section 105.

REVIEW AND APPROVAL OF PLAN

SEC. 105. (a)(1) Not less than 120 days before the beginning of the first of the two program years covered by the job training plan—

(A) the proposed plan or summary thereof shall be published; and

(B) such plan shall be made available for review and comment to—

(i) each house of the State legislature for appropriate referral;

(ii) appropriate local educational and other public agencies in the service delivery area; and

(iii) labor organizations in the area which represent employees having the skills in which training is proposed; and

(C) such plan shall be reasonably available to the general public through such means as public hearings and local news facilities.

(2) The final plan, or a summary thereof, shall be published not later than 80 days before the first of the two program years and shall be submitted to the Governor in accordance with section 103(d)(2). Any modification shall be published not later than 80 days before it is effective and shall be submitted to the Governor in accordance with such section.

(b)(1) The Governor shall approve the job training plan or modification thereof unless he finds that—

(A) corrective measures for deficiencies found in audits or in meeting performance standards from previous years have not been taken or are not acceptably underway;

(B) the entity proposed to administer the program does not have the capacity to administer the funds;

(C) there are inadequate safeguards for the protection of funds received;

(D) the plan (or modification) does not comply with a particular provision or provisions of this Act or of regulations of the Secretary under this Act; or

(E) the plan (or modification) does not comply with the criteria under section 121(b) for coordinating activities under this Act with related program activities.

(2) The Governor shall approve or disapprove a job training plan (or modification) within 30 days after the date that the plan (or modification) is submitted, except that if a petition is filed under paragraph (3) such period shall be extended to 45 days. Any disapproval by the Governor may be appealed to the Secretary, who shall make a final decision of whether the Governor's disapproval complies with paragraph (1) of this subsection within 45 days after receipt of the appeal.

(3)(A) Interested parties may petition the Government within 15 days of the date of submission for disapproval of the plan or modification thereof if—

(i) the party can demonstrate that it represents a substantial client interest,

(ii) the party took appropriate steps to present its views and seek resolution of disputed issues prior to submission of the plan to the Governor, and

(iii) the request for disapproval is based on a violation of statutory requirements.

(B) If the Governor approves the plan (or modification), the Governor shall notify the petitioner in writing of such decision and the reasons therefor.

(c)(1) If a private industry council and the appropriate chief elected official or officials fail to reach the agreement required under section 103 (b) or (d) and, as a consequence, funds for a service delivery area may not be made available under section 104, then the Governor shall redesignate, without regard to sections 101 (a)(4) and (c)(1), the service delivery areas in the State to merge the affected area into one or more other service delivery areas, in order to promote the reaching of agreement.

(2) In any State in which service delivery areas are redesignated under paragraph (1), private industry councils shall, to the extent necessary for the redesignation, be reconstituted and job training plans

modified as required to comply with sections 102 and 103. Services under an approved plan shall not be suspended while the council is reconstituted and the plan is modified.

(d) In any case in which the service delivery area is a State, the plan (or modification) shall be submitted to the Secretary for approval. For the purpose of this subsection, the Secretary shall have the same authority as the Governor has under this section.

PERFORMANCE STANDARDS

SEC. 106. (a) The Congress recognizes that job training is an investment in human capital and not an expense. In order to determine whether that investment has been productive, the Congress finds that—

(1) it is essential that criteria for measuring the return on this investment be developed; and

(2) the basic return on the investment is to be measured by the increased employment and earnings of participants and the reductions in welfare dependency.

(b)(1) The basic measure of performance for adult training programs under title II is the increase in employment and earnings and the reductions in welfare dependency resulting from participation in the program. In order to determine whether these basic measures are achieved, the Secretary shall prescribe standards on the basis of appropriate factors which may include (A) placement in unsubsidized employment, (B) retention in unsubsidized employment, (C) the increase in earnings, including hourly wages, and (D) reduction in the number of individuals and families receiving cash welfare payments and the amounts of such payments.

(2) In prescribing standards under this section the Secretary shall also designate factors for evaluating the performance of youth programs which, in addition to appropriate utilization of the factors described in paragraph (1), shall be (A) attainment of recognized employment competencies recognized by the private industry council, (B) elementary, secondary, and postsecondary school completion, or the equivalent thereof, and (C) enrollment in other training programs or apprenticeships, or enlistment in the Armed Forces.

(3) The standards shall include provisions governing—

(A) the base period prior to program participation that will be used;

(B) a representative period after termination from the program that is a reasonable indicator of postprogram earnings and cash welfare payment reductions; and

(C) cost-effective methods for obtaining such data as is necessary to carry out this section, which, notwithstanding any other provision of law, may include access to earnings records, State employment security records, Federal Insurance Contributions Act records, State aid to families with dependent children records, statistical sampling techniques, and similar records or measures.

(4) The Secretary shall prescribe performance standards relating gross program expenditures to various performance measures.

(c) Within six months after the date of the enactment of this Act, the Secretary shall establish initial performance standards which are designed to contribute to the achievement of the performance goals

14-064 O - 83 - 2

set forth in subsection (b)(1), based upon data accumulated under the Comprehensive Employment and Training Act, from the National Commission for Employment Policy, and from other appropriate sources. In the development of the initial standards under this subsection, the Secretary shall relate gross program expenditures to the accomplishment of program goals set forth in subsection (b)(1).

(d)(1) The Secretary shall, not later than January 31, 1984, prescribe performance standards for the first program year under this Act to measure the results of the participation in the program to achieve the goals set forth in subsection (b)(1) based upon the initial standards established in subsection (c).

(2) The Secretary, not later than six months after the completion of the first two program years, shall prepare and submit a report to the Congress containing the performance standards established under paragraph (1) of this subsection, together with an analysis of the manner in which the performance standards contribute to the achievement of the goals set forth in subsection (b)(1), including the relative importance of each standard to the accomplishment of such goals.

(3) The Secretary shall prescribe variations in performance standards for special populations to be served, including Native Americans, migrant and seasonal farmworkers, and offenders, taking into account their special circumstances.

(4)(A) The Secretary may modify the performance standards under this subsection not more often than once every two program years and such modifications shall not be retroactive.

(B) The Secretary shall prepare and submit a report to the Congress containing any modifications established under subparagraph (A), and the reasons for such modifications.

(e) Each Governor may prescribe, within parameters established by the Secretary, variations in the standards under this subsection based upon specific economic, geographic, and demographic factors in the State and in service delivery areas within the State, the characteristics of the population to be served, and the type of services to be provided.

(f) The National Commission for Employment Policy shall (1) advise the Secretary in the development of performance standards under this section for measuring results of participation in job training and in the development of parameters for variations of such standards referred to in subsection (e), (2) evaluate the usefulness of such standards as measures of desired performance, and (3) evaluate the impacts of such standards (intended or otherwise) on the choice of who is served, what services are provided, and the cost of such services in service delivery areas.

(g) The Secretary shall prescribe performance standards for programs under title III based on placement and retention in unsubsidized employment.

(h)(1) The Governor shall provide technical assistance to programs which do not meet performance criteria. If the failure to meet performance standards persists for a second year, the Governor shall impose a reorganization plan. Such plan may restructure the private industry council, prohibit the use of designated service providers or make such other changes as the Governor deems necessary to improve performance. The Governor may also select an alternate entity to administer the program for the service delivery area.

(2) The alternate administrative entity may be a newly formed private industry council or any agency jointly selected by the Governor and the chief elected official of the largest unit of general local government in the service delivery area.

(3) No change may be made under this subsection without an opportunity for a hearing before a hearing officer.

(4) The decision of the Governor may be appealed to the Secretary, who shall make a final decision within 60 days of the receipt of the appeal.

SELECTION OF SERVICE PROVIDERS

SEC. 107. (a) The primary consideration in selecting agencies or organizations to deliver services within a service delivery area shall be the effectiveness of the agency or organization in delivering comparable or related services based on demonstrated performance, in terms of the likelihood of meeting performance goals, cost, quality of training, and characteristics of participants. In complying with this subsection, proper consideration shall be given to community-based organizations as service providers.

(b) Funds provided under this Act shall not be used to duplicate facilities or services available in the area (with or without reimbursement) from Federal, State, or local sources, unless it is demonstrated that alternative services or facilities would be more effective or more likely to achieve the service delivery area's performance goals.

(c) Appropriate education agencies in the service delivery area shall be provided the opportunity to provide educational services, unless the administrative entity demonstrates that alternative agencies or organizations would be more effective or would have greater potential to enhance the participants' continued occupational and career growth.

(d) The administrative entity shall not fund any occupational skills training program unless the level of skills provided in the program are in accordance with guidelines established by the private industry council.

LIMITATION ON CERTAIN COSTS

SEC. 108. (a) Not more than 15 percent of the funds available to a service delivery area for any fiscal year for programs under part A of title II may be expended for the cost of administration. For purposes of this paragraph, costs of program support (such as counseling) which are directly related to the provision of education or training and such additional costs as may be attributable to the development of training described in section 204(28) shall not be counted as part of the cost of administration.

(b)(1) Not more than 30 percent of the funds available to a service delivery area for any fiscal year for programs under part A of title II may be expended for administrative costs (as defined under subsection (a)) and costs specified in paragraph (2).

(2)(A) For purposes of paragraph (1), the costs specified in this paragraph are—

(i) 50 percent of any work experience expenditures which meet the requirements of paragraph (3);

(ii) 100 percent of the cost of any work experience program expenditures which do not meet the requirements of paragraph (3);

(iii) supportive services; and

(iv) needs-based payments described in section 204(27).

(B) For purposes of paragraph (1), the costs specified in this paragraph do not include expenditures for tryout employment which meets the requirements of section 205(d)(3)(B).

(3) For purposes of paragraph (2), a work experience expenditure meets the requirements of this paragraph if—

(A) the work experience is of not more than 6 months' duration and is combined with a classroom or other training program;

(B) an individual participant is prohibited from participating in any other work experience program following participation in a program meeting the requirements of this paragraph;

(C) the classroom or other training program component is specified in a preemployment contract or meets established academic standards; and

(D) wages paid in the work experience program do not exceed the prevailing entry-level wage for the same occupation in the same labor market area.

(c)(1) Notwithstanding subsection (b), expenditures may be made in excess of the limitation contained in such subsection if such expenditures are made in accordance with the requirements of this subsection.

(2) Expenditures may be made in excess of the limitation contained in subsection (b) in any service delivery area if—

(A) the private industry council for such area initiates a request for such excess costs; and

(B) excess costs are due to one or more of the following conditions in such area:

(i) an unemployment rate (in the service delivery area or that portion within which services resulting in excess costs are to be provided) which exceeds the national average unemployment rate by at least 3 percentage points, and the ratio of current private employment to population in such area or portion is less than the national average of such ratio;

(ii) the job training plan for such area proposes to serve a disproportionately high number of participants from groups requiring exceptional supportive service costs, such as handicapped individuals, offenders, and single heads of households with dependent children;

(iii) the cost of providing necessary child care exceeds one-half of the costs specified in paragraph (2) of subsection (b);

(iv) the costs of providing necessary transportation exceeds one-third of the costs specified in paragraph (2) of subsection (b); or

(v) a substantial portion of the participants in programs in the service delivery area are in training programs of 9 months' duration or more.

(3) Expenditures may be made in excess of the limitation contained in subsection (b) if the need for and the amount of the excess

is stated in the job training plan (or modification thereof) for the service delivery area and such plan demonstrates that administrative costs comply with subsection (a) of this section.

(4) The provisions of this subsection shall not be available to the extent that supportive services provided under the job training plan duplicate services provided by any other public or private source that are available to participants without cost.

(5) The Governor shall not disapprove any plan (or modification thereof) on the basis of any statement of the need for and amount of excess costs in the job training plan if such plan or modification meets the requirements of this subsection.

(d) The provisions of this section do not apply to any service delivery area designated pursuant to section 101(a)(4)(A)(iii).

(e) This section shall not be construed to exempt programs under an approved plan from the performance standards established under section 106.

PART B—ADDITIONAL STATE RESPONSIBILITIES

GOVERNOR'S COORDINATION AND SPECIAL SERVICES PLAN

SEC. 121. (a)(1) The Governor shall annually prepare a statement of goals and objectives for job training and placement programs within the State to assist in the preparation of the plans required under section 104 of this Act and section 8 of the Act of June 6, 1933 (known as the Wagner-Peyser Act).

(2) Any State seeking financial assistance under this Act shall submit a Governor's coordination and special services plan for two program years to the Secretary describing the use of all resources provided to the State and its service delivery areas under this Act and evaluating the experience over the preceding two years.

(b)(1) The plan shall establish criteria for coordinating activities under this Act (including title III) with programs and services provided by State and local education and training agencies (including vocational education agencies), public assistance agencies, the employment service, rehabilitation agencies, postsecondary institutions, economic development agencies, and such other agencies as the Governor determines to have a direct interest in employment and training and human resource utilization within the State. Such criteria shall not affect local discretion concerning the selection of eligible participants or service providers in accordance with the provisions of sections 107 and 203.

(2) The plan shall describe the projected use of resources, including oversight and support activities, priorities and criteria for State incentive grants, and performance goals for State supported programs.

(3) The Governor shall report to the Secretary the adjustments made in the performance standards and the factors that are used in making the adjustments.

(4) If major changes occur in labor market conditions, funding, or other factors during the two-year period covered by the plan, the State shall submit a modification to the Secretary describing these changes.

(c) Governor's coordination and special services activities may include—

(1) making available to service delivery areas, with or without reimbursement and upon request, appropriate information and technical assistance to assist in developing and implementing plans and programs;

(2) carrying out special model training and employment programs and related services (including programs receiving financial assistance from private sources);

(3) providing programs and related services for offenders and other individuals whom the Governor determines require special assistance;

(4) providing financial assistance for special programs and services designed to meet the needs of rural areas outside major labor market areas;

(5) providing training opportunities in the conservation and efficient use of energy, and the development of solar energy sources as defined in section 3 of the Solar Energy Research, Development and Demonstration Act of 1974;

(6) industry-wide training;

(7) activities under title III of this Act;

(8) developing and providing to service delivery areas information on a State and local area basis regarding economic, industrial, and labor market conditions;

(9) providing preservice and inservice training for planning, management, and delivery staffs of administrative entities and private industry councils, as well as contractors for State supported programs; and

(10) providing statewide programs which provide for joint funding of activities under this Act with services and activities under other Federal, State, or local employment-related programs.

(d) A Governor's coordination and special services plan shall be approved by the Secretary unless the Secretary determines that the plan does not comply with specific provisions of this Act.

STATE JOB TRAINING COORDINATING COUNCIL

SEC. 122. (a)(1) Any State which desires to receive financial assistance under this Act shall establish a State job training coordinating council (hereinafter in this section referred to as the "State council"). Funding for the council shall be provided pursuant to section 202(b)(4).

(2) The State council shall be appointed by the Governor, who shall designate one nongovernmental number thereof to be chairperson. In making appointments to the State council, the Governor shall ensure that the membership of the State council reasonably represents the population of the State.

(3) The State council shall be composed as follows:

(A) One-third of the membership of the State council shall be representatives of business and industry (including agriculture, where appropriate) in the State, including individuals who are representatives of business and industry on private industry councils in the State.

(B) Not less than 20 percent of the membership of the State council shall be representatives of the State legislature and State agencies and organizations, such as the State educational agency,

the State vocational education board, the State advisory council on vocational education, the State board of education (when not otherwise represented), State public assistance agencies, the State employment security agency, the State rehabilitation agency, the State occupational information coordinating committee, State postsecondary institutions, the State economic development agency, State veterans' affairs agencies or equivalent, and such other agencies as the Governor determines to have a direct interest in employment and training and human resource utilization within the State.

(C) Not less than 20 percent of the membership of the State council shall be representatives of the units or consortia of units of general local government in such State (including those which are administrative entities or grantees under this Act) which shall be nominated by the chief elected officials of the units or consortia of units of general local government; and

(D) Not less than 20 percent of the membership of the State council shall be representatives of the eligible population and of the general public, representatives of organized labor, representatives of community-based organizations, and representatives of local educational agencies (nominated by local educational agencies).

(4) The State council shall meet at such times and in such places as it deems necessary. The meetings shall be publicly announced, and, to the extent appropriate, open and accessible to the general public.

(5) The State council is authorized to obtain the services of such professional, technical, and clerical personnel as may be necessary to carry out its functions under this Act.

(6) In order to assure objective management and oversight, the State council shall not operate programs or provide services directly to eligible participants, but shall exist solely to plan, coordinate, and monitor the provision of such programs and services.

(7) The plans and decisions of the State council shall be subject to approval by the Governor.

(8) For purposes of section 105 of the Vocational Education Act of 1963, the State council shall be considered to be the same as either the State Manpower Services Council referred to in that section or the State Employment and Training Council authorized under the Comprehensive Employment and Training Act.

(b) The State council shall—

(1) recommend a Governor's coordination and special services plan;

(2) recommend to the Governor substate service delivery areas, plan resource allocations not subject to section 202(a), provide management guidance and review for all programs in the State, develop appropriate linkages with other programs, coordinate activities with private industry councils, and develop the Governor's coordination and special services plan and recommend variations in performance standards;

(3) advise the Governor and local entities on job training plans and certify the consistency of such plans with criteria under the Governor's coordination and special services plan for coordination of activities under this Act with other Federal, State, and

local employment-related programs, including programs operated in designated enterprise zones;

(4) review the operation of programs conducted in each service delivery area, and the availability, responsiveness, and adequacy of State services, and make recommendations to the Governor, appropriate chief elected officials, and private industry councils, service providers, the State legislature, and the general public with respect to ways to improve the effectiveness of such programs or services;

(5) review and comment on the State plan developed for the State employment service agency;

(6) make an annual report to the Governor which shall be a public document, and issue such other studies, reports, or documents as it deems advisable to assist service delivery areas in carrying out the purposes of this Act;

(7)(A) identify, in coordination with the appropriate State agencies, the employment and training and vocational education needs throughout the State, and assess the extent to which employment and training, vocational education, rehabilitation services, public assistance, economic development, and other Federal, State, and local programs and services represent a consistent, integrated, and coordinated approach to meeting such needs; and

(B) comment at least once annually on the reports required pursuant to section 105(d)(3) of the Vocational Education Act of 1963; and

(8) review plans of all State agencies providing employment, training, and related services, and provide comments and recommendations to the Governor, the State legislature, the State agencies, and the appropriate Federal agencies on the relevancy and effectiveness of employment and training and related service delivery systems in the State.

(c) In addition to the functions described in subsection (b), the Governor may, to the extent permitted by applicable law, transfer functions which are related to functions under this Act to the council established under this section from any State coordinating committee for the work incentive program under title IV of the Social Security Act or any advisory council established under the Wagner-Peyser Act.

STATE EDUCATION COORDINATION AND GRANTS

SEC. 123. (a) The sums available for this section pursuant to section 202(b)(1) shall be used by the Governor to provide financial assistance to any State education agency responsible for education and training—

(1) to provide services for eligible participants through cooperative agreements between such State education agency or agencies, administrative entities in service delivery areas in the State, and (where appropriate) local educational agencies; and

(2) to facilitate coordination of education and training services for eligible participants through such cooperative agreements.

(b) The cooperative agreements described in subsection (a) shall provide for the contribution by the State agency or agencies, and the

local educational agency (if any), of a total amount equal to the amount provided, pursuant to subsection (a)(1), in the grant subject to such agreement. Such matching amount shall not be provided from funds available under this Act, but may include the direct cost of employment or training services provided by State or local programs.

(c)(1) Funds available under this section may be used to provide education and training, including vocational education services, and related services to participants under title II. Such services may include services for offenders and other individuals whom the Governor determines require special assistance.

(2)(A) Not more than 20 percent of the funds available under this section may be spent for activities described in clause (2) of subsection (a).

(B) At least 80 percent of the funds available under this section shall be used for clause (1) of subsection (a) for the Federal share of the cost of carrying out activities described in clause (1). For the purpose of this subparagraph, the Federal share shall be the amount provided for in the cooperative agreements in subsection (b).

(3) Not less than 75 percent of the funds available for activities under clause (1) of subsection (a) shall be expended for activities for economically disadvantaged individuals.

(d) If no cooperative agreement is reached on the use of funds under this section, the funds shall be available to the Governor for use in accordance with section 121.

TRAINING PROGRAMS FOR OLDER INDIVIDUALS

SEC. 124. (a) From funds available for use under section 202(b)(2), the Governor is authorized to provide for job training programs which are developed in conjunction with service delivery areas within the State and which are consistent with the plan for the service delivery area prepared and submitted in accordance with the provisions in section 104, and designed to assure the training and placement of older individuals in employment opportunities with private business concerns.

(b) In carrying out this section, the Governor shall, after consultation with appropriate private industry councils and chief elected officials, enter into agreements with public agencies, nonprofit private organizations, and private business concerns.

(c) The Governor shall give consideration to assisting programs involving training for jobs in growth industries and jobs reflecting the use of new technological skills.

(d) An individual shall be eligible to participate in a job training program under this section only if the individual is economically disadvantaged and has attained 55 years of age.

STATE LABOR MARKET INFORMATION PROGRAMS

SEC. 125. (a) In order to be eligible for Federal financial assistance for State labor market information programs under this Act from funds made available under section 202(b)(4) and section 461(b), the Governor shall designate the State occupational information coordinating committee or other organizational unit to be responsible for oversight and management of a statewide comprehensive labor market

and occupational supply and demand information system, which shall—

(1) design a comprehensive cost-efficient labor market and occupational supply and demand information system which—

(A) is responsive to the economic demand and education and training supply support needs of the State and areas within the State, and

(B) meets the Federal standards under chapter 35 of title 44, United States Code, and other appropriate Federal standards established by the Bureau of Labor Statistics;

(2) standardize available Federal and State multi-agency administrative records and direct survey data sources to produce an employment and economic analysis with a published set of projections for the State and designated areas within the State which, at the minimum, includes—

(A) identification of geographic and occupational areas of potential growth or decline; and

(B) an assessment of the potential impact of such growth or decline on individuals, industries, and communities, including occupational supply and demand characteristics data;

(3) assure, to the extent feasible, that—

(A) automated technology will be used by the State;

(B) administrative records have been designed to reduce paperwork; and

(C) multiple survey burdens on the employers of the State have been reduced;

(4) publish and disseminate labor market and occupational supply and demand information and individualized career information to State agencies, area public agencies, libraries, and private not-for-profit users, and individuals who are in the process of making career decision choices; and

(5) conduct research and demonstration projects designed to improve any aspect of the statewide information system.

(b)(1) The analysis required under clause (2) of subsection (a) shall be used to contribute in carrying out the provisions of this Act, the Vocational Education Act of 1963. and the Act of June 6, 1933, known as the Wagner-Peyser Act.

(2) The assurance required by clause (3) of subsection (a) shall also include that the State will, to the maximum extent possible, assure consolidation of available administrative data and surveys to reduce duplication of recordkeeping of State and local agencies, including secondary and postsecondary educational institutions.

(3) If any Federal funds are used to carry out clause (5) of subsection (a), access to and information on the results will remain in the public domain.

(c) The Secretary through the National Occupational Information Coordinating Committee shall reimburse the States the costs of carrying out the provisions of this section but the aggregate reimbursements in any fiscal year shall not exceed the amount available under part E of title IV for this section.

(d) No provision of this part or any other provision of Federal law shall be construed to prohibit any State from combining or consolidating Federal administrative management information reporting requirements relating to employment, productivity, or training, if notice

is transmitted by the Governor to the head of each appropriate Federal and State agency responsible for the laws governing the Federal reporting requirements. The notice shall specify the intent to combine or consolidate such requirements. The head of each appropriate Federal agency shall approve the combination or consolidation unless, within sixty days after receiving the notice, the Federal agency can demonstrate that the combination or consolidation will not meet the essential purposes of the affected Federal law.

AUTHORITY OF STATE LEGISLATURE

SEC. 126. Nothing in this Act shall be interpreted to preclude the enactment of State legislation providing for the implementation, consistent with the provisions of this Act, of the programs assisted under this Act.

INTERSTATE AGREEMENTS

SEC. 127. In the event that compliance with provisions of this Act would be enhanced by cooperative agreements between States, the consent of Congress is hereby given to such States to enter into such compacts and agreements to facilitate such compliance, subject to the approval of the Secretary.

PART C—PROGRAM REQUIREMENTS FOR SERVICE DELIVERY SYSTEM

GENERAL PROGRAM REQUIREMENTS

SEC. 141. Except as otherwise provided, the following conditions are applicable to all programs under this Act:

(a) Each job training plan shall provide employment and training opportunities to those who can benefit from, and who are most in need of, such opportunities and shall make efforts to provide equitable services among substantial segments of the eligible population.

(b) Funds provided under this Act shall only be used for activities which are in addition to those which would otherwise be available in the area in the absence of such funds.

(c) No funds may be used to assist in relocating establishments, or parts thereof, from one area to another unless the Secretary determines that such relocation will not result in an increase in unemployment in the area of original location or in any other area.

(d) (1) Training provided with funds made available under this Act shall be only for occupations for which there is a demand in the area served or in another area to which the participant is willing to relocate, and consideration in the selection of training programs may be given to training in occupations determined to be in sectors of the economy which have a high potential for sustained demand or growth.

(2) Efforts shall be made to develop programs which contribute to occupational development, upward mobility, development of new careers, and overcoming sex-stereotyping in occupations traditional for the other sex.

(3) Commercially available training packages, including advanced learning technology, may be purchased for off-the-shelf prices and without requiring a breakdown of the cost components of the pack-

age if such packages are purchased competitively and include performance criteria.

(e) Only eligible individuals residing in the service delivery area may be served by employment and training activities funded under title II, except that the job training plan may provide for limited exceptions to this requirement.

(f) No member of any council under this Act shall cast a vote on the provision of services by that member (or any organization which that member directly represents) or vote on any matter which would provide direct financial benefit to that member.

(g) Payments to employers for on-the-job training shall not, during the period of such training, average more than 50 percent of the wages paid by the employer to such participants, and payments in such amount shall be deemed to be in compensation for the extraordinary costs associated with training participants under this Act and in compensation for the costs associated with the lower productivity of such participants.

(h) Funds provided under this Act shall not be used to duplicate facilities or services available in the area (with or without reimbursement) from Federal, State, or local sources, unless the plan establishes that alternative services or facilities would be more effective or more likely to achieve performance goals.

(i) Each administrative entity shall be responsible for the allocation of funds and the eligibility of those enrolled in its programs and shall have responsibility to take action against its subcontractors, subgrantees, and other recipients to eliminate abuses in the programs they are carrying out, and to prevent any misuse of funds by such subcontractors, subgrantees, and other recipients. Administrative entities may delegate the responsibility for determination of eligibility under reasonable safeguards, including provisions for reimbursement of cost incurred because of erroneous determinations made with insufficient care, if such an arrangement is included in an approved job training plan.

(j) No person or organization may charge an individual a fee for the placement or referral of such individual in or to a training program under this Act.

(k) No funds may be provided under this Act for any subsidized employment with any private for-profit employer unless the individual employed is a youth aged 16 to 21, inclusive, who is economically disadvantaged and the employment is provided in accordance with section 205(d)(3)(B).

(l) The Secretary shall not provide financial assistance for any program under this Act which involves political activities.

(m) Pursuant to regulations of the Secretary, income generated under any program may be retained by the recipient to continue to carry out the program, notwithstanding the expiration of financial assistance for that program.

(n) The Secretary shall notify the Governor and the appropriate private industry councils and chief elected officials of, and consult with the Governor and such councils and officials concerning, any activity to be funded by the Secretary under this Act within the State or service delivery area; and the Governor shall notify the appropriate private industry councils and chief elected officials of, and consult with

such concerning, any activity to be funded by the Governor under this Act within the service delivery area.

(o)(1) All education programs for youth supported with funds provided under title II shall be consistent with applicable State and local educational standards.

(2) Standards and procedures with respect to the awarding of academic credit and certifying educational attainment in programs conducted under such title shall be consistent with the requirements of applicable State and local law and regulation.

(p) No funds available under part B of this title or part A of title II may be used for public service employment.

BENEFITS

SEC. 142. (a) Except as otherwise provided in this Act, the following provisions shall apply to all activities financed under this Act:

(1) A trainee shall receive no payments for training activities in which the trainee fails to participate without good cause.

(2) Individuals in on-the-job training shall be compensated by the employer at the same rates, including periodic increases, as similarly situated employees or trainees and in accordance with applicable law, but in no event less than the higher of the rate specified in section 6(a)(1) of the Fair Labor Standards Act of 1938 or the applicable State or local minimum wage law.

(3) Individuals employed in activities authorized under this Act shall be paid wages which shall not be less than the highest of (A) the minimum wage under section 6(a)(1) of the Fair Labor Standards Act of 1938, (B) the minimum wage under the applicable State or local minimum wage law, or (C) the prevailing rates of pay for individuals employed in similar occupations by the same employer.

(b) Allowances, earnings and payments to individuals participating in programs under this Act shall not be considered as income for the purposes of determining eligibility for and the amount of income transfer and in-kind aid furnished under any Federal or federally assisted program based on need other than programs under the Social Security Act.

LABOR STANDARDS

SEC. 143. (a)(1) Conditions of employment and training shall be appropriate and reasonable in light of such factors as the type of work, geographical region, and proficiency of the participant.

(2) Health and safety standards established under State and Federal law, otherwise applicable to working conditions of employees, shall be equally applicable to working conditions of participants. With respect to any participant in a program conducted under this Act who is engaged in activities which are not covered by health and safety standards under the Occupational Safety and Health Act of 1970, the Secretary shall prescribe, by regulation, such standards as may be necessary to protect the health and safety of such participants.

(3) To the extent that a State workers' compensation law is applicable, workers' compensation benefits in accordance with such law shall be available with respect to injuries suffered by participants. To the extent that such law is not applicable, each recipient

of funds under this Act shall secure insurance coverage for injuries suffered by such participants, in accordance with regulations prescribed by the Secretary.

(4) All individuals employed in subsidized jobs shall be provided benefits and working conditions at the same level and to the same extent as other employees working a similar length of time and doing the same type of work.

(5) No funds available under this Act may be used for contributions on behalf of any participant to retirement systems or plans.

(b)(1) No currently employed worker shall be displaced by any participant (including partial displacement such as a reduction in the hours of nonovertime work, wages, or employment benefits).

(2) No program shall impair existing contracts for services or collective bargaining agreements, except that no program under this Act which would be inconsistent with the terms of a collective bargaining agreement shall be undertaken without the written concurrence of the labor organization and employer concerned.

(3) No participant shall be employed or job opening filled (A) when any other individual is on layoff from the same or any substantially equivalent job, or (B) when the employer has terminated the employment of any regular employee or otherwise reduced its workforce with the intention of filling the vacancy so created by hiring a participant whose wages are subsidized under this Act.

(4) No jobs shall be created in a promotional line that will infringe in any way upon the promotional opportunities of currently employed individuals.

(c)(1) Each recipient of funds under this Act shall provide to the Secretary assurances that none of such funds will be used to assist, promote, or deter union organizing.

(2) Where a labor organization represents a substantial number of employees who are engaged in similar work or training in the same area as that proposed to be funded under this Act, an opportunity shall be provided for such organization to submit comments with respect to such proposal.

(d) All laborers and mechanics employed by contractors or subcontractors in any construction, alteration, or repair, including painting and decorating, of projects, buildings, and works which are federally assisted under this Act, shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary in accordance with the Act of March 3, 1931 (40 U.S.C. 276a–276a–5), popularly known as the Davis-Bacon Act. The Secretary shall have, with respect to such labor standards, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 64 Stat. 1267) and section 2 of the Act of June 1, 1934, as amended (48 Stat. 948, as amended; 40 U.S.C. 276(c)). The provisions of this subsection shall not apply to a bona fide trainee in a training program under this Act. The provisions of section 167(a)(4) shall apply to such trainees.

GRIEVANCE PROCEDURE

SEC. 144. (a) Each administrative entity, contractor, and grantee under this Act shall establish and maintain a grievance procedure

for grievances or complaints about its programs and activities from participants, subgrantees, subcontractors, and other interested persons. Hearings on any grievance shall be conducted within 30 days of filing of a grievance and decisions shall be made not later than 60 days after the filing of a grievance. Except for complaints alleging fraud or criminal activity, complaints shall be made within one year of the alleged occurrence.

(b) Each recipient of financial assistance under this Act which is an employer of participants under this Act shall continue to operate or establish and maintain a grievance procedure relating to the terms and conditions of employment.

(c) Upon exhaustion of a recipient's grievance procedure without decision, or where the Secretary has reason to believe that the recipient is failing to comply with the requirements of this Act or the terms of the job training plan, the Secretary shall investigate the allegations or belief and determine within 120 days after receiving the complaint whether such allegation or complaint is true.

PROHIBITION AGAINST FEDERAL CONTROL OF EDUCATION

SEC. 145. No provision of this Act shall be construed to authorize any department, agency, officer, or employee of the United States to exercise any direction, supervision, or control over the curriculum, program of instruction, administration, or personnel of any educational institution, school, or school system, or over the selection of library resources, textbooks, or other printed or published instructional materials by any educational institution or school system.

PART D—FEDERAL AND FISCAL ADMINISTRATIVE PROVISIONS

PROGRAM YEAR

SEC. 161. (a) Beginning with fiscal year 1985 and thereafter, appropriations for any fiscal year for programs and activities under this Act shall be available for obligation only on the basis of a program year. The program year shall begin on July 1 in the fiscal year for which the appropriation is made.

(b) Funds obligated for any program year may be expended by each recipient during that program year and the two succeeding program years and no amount shall be deobligated on account of a rate of expenditure which is consistent with the job training plan.

(c)(1) Appropriations for fiscal year 1984 shall be available both to fund activities for the period between October 1, 1983, and July 1, 1984, and for the program year beginning July 1, 1984.

(2) There are authorized to be appropriated such additional sums as may be necessary to carry out the provisions of this subsection for the transition to program year funding.

PROMPT ALLOCATION OF FUNDS

SEC. 162. (a) All allotments and allocations under this Act shall be based on the latest available data and estimates satisfactory to the Secretary. All data relating to economically disadvantaged and low-income persons shall be based on 1980 Census or later data.

(b) Whenever the Secretary allots and allocates funds required to be allotted or allocated by formula under this Act, the Secretary shall publish in a timely fashion in the Federal Register the proposed amount to be distributed to each recipient.

(c) All funds required to be distributed by formula under this Act shall be allotted within 45 days after enactment of the appropriations, except that, if such funds are appropriated in advance as authorized by section 161, such funds shall be allotted not later than the March 31 preceding the program year for which such funds are to be available for obligation.

(d) Whenever the Secretary utilizes a formula to allot or allocate funds made available for distribution at the Secretary's discretion under this Act, the Secretary shall, not later than 30 days prior to such allotment or allocation, publish such formula in the Federal Register for comments along with the rationale for the formula and the proposed amounts to be distributed to each State and area. After consideration of any comments received, the Secretary shall publish final allotments and allocations in the Federal Register.

(e) Funds shall be made available to the grant recipient for the service delivery area not later than 30 days after the date they are made available to the Governor or 7 days after the date the plan is approved, whichever is later.

MONITORING

SEC. 163. (a) The Secretary is authorized to monitor all recipients of financial assistance under this Act to determine whether they are complying with the provisions of this Act and the regulations issued under this Act.

(b) The Secretary may investigate any matter the Secretary deems necessary to determine compliance with this Act and regulations issued under this Act. The investigations authorized by this subsection may include examining records (including making certified copies thereof), questioning employees, and entering any premises or onto any site in which any part of a program of a recipient is conducted or in which any of the records of the recipient are kept.

(c) For the purpose of any investigation or hearing under this Act, the provisions of section 9 of the Federal Trade Commission Act (15 U.S.C. 49) (relating to the attendance of witnesses and the production of books, papers, and documents) are made applicable to the Secretary.

FISCAL CONTROLS; SANCTIONS

SEC. 164. (a) (1) Each State shall establish such fiscal control and fund accounting procedures as may be necessary to assure the proper disbursal of, and accounting for, Federal funds paid to the recipient under titles II and III. The Director of the Office of Management and Budget, in consultation with the Comptroller General of the United States, shall establish guidance for the proper performance of audits. Such guidance shall include a review of fiscal controls and fund accounting procedures established by States under this section.

(2) At least once every two years, the State shall prepare or have prepared an independent financial and compliance audit of each re-

cipient of funds under titles II and III of this Act. Under criteria established by the Director of the Office of Management and Budget, and upon application by the Governor, the Secretary may exempt designated recipients from all or part of the requirements of this section, except that any such exemption shall not apply to the State administering agency, the entity which is the administrative entity for the job training plan for a service delivery area, or a private industry council. Any exemption under this section may be withdrawn by the Secretary in consultation with the Director of the Office of Management and Budget.

(3) Each audit shall be conducted in accordance with applicable auditing standards set forth in the financial and compliance element of the Standards for Audit of Governmental Organizations, Programs, Activities, and Functions issued by the Comptroller General of the United States.

(b) (1) Whenever, as a result of financial and compliance audits or otherwise, the Governor determines that there is a substantial violation of a specific provision of this Act or the regulations, and corrective action has not been taken, the Governor may issue a notice of intent to revoke approval of all or part of the plan affected. Such notice may be appealed to the Secretary under the same terms and conditions as the disapproval of the plan and shall not become effective until (A) the time for appeal has expired or (B) the Secretary has issued a decision.

(2) The Governor shall withdraw the notice if the approriate corrective action has been taken.

(c) (1) The Comptroller General of the United States shall, on a selective basis, evaluate the expenditures by the recipients of grants under this Act in order to assure that expenditures are consistent with the provisions of this Act and to determine the effectiveness of each recipient in accomplishing the purposes of this Act. The Comptroller General shall conduct the evaluations whenever he determines it necessary and he shall periodically report to the Congress on the findings of such evaluations.

(2) Nothing in this Act shall be deemed to relieve the Inspector General of the Department of Labor of his responsibilities under the Inspector General Act.

(3) For the purpose of evaluating and reviewing programs established or provided for by this Act, the Comptroller General shall have access to and the right to copy any books, accounts, records, correspondence, or other documents pertinent to such programs that are in the possession, custody, or control of the State, a private industry council established under section 102 of this Act, any recipient of funds under this Act, or any subgrantee or contractor of such recipients.

(d) Every recipient shall repay to the United States amounts found not to have been expended in accordance with this Act. The Secretary may offset such amounts against any other amount to which the recipient is or may be entitled under this Act unless he determines that such recipient should be held liable pursuant to subsection (e). No such action shall be taken except after notice and opportunity for a hearing have been given to the recipient.

14-064 O - 83 - 3

(e)(1) Each recipient shall be liable to repay such amounts, from funds other than funds received under this Act, upon a determination that the misexpenditure of funds was due to willful disregard of the requirements of this Act, gross negligence, or failure to observe accepted standards of administration. No such finding shall be made except after notice and opportunity for a fair hearing.

(2) In determining whether to impose any sanction authorized by this section against a recipient for violations by a subgrantee of such recipient under this Act or the regulations under this Act, the Secretary shall first determine whether such recipient has adequately demonstrated that it has—

(A) established and adhered to an appropriate system for the award and monitoring of contracts with subgrantees which contains acceptable standards for ensuring accountability;

(B) entered into a written contract with such subgrantee which established clear goals and obligations in unambiguous terms;

(C) acted with due diligence to monitor the implementation of the subgrantee contract, including the carrying out of the appropriate monitoring activities (including audits) at reasonable intervals; and

(D) taken prompt and appropriate corrective action upon becoming aware of any evidence of a violation of this Act or the regulations under this Act by such subgrantee.

(3) If the Secretary determines that the recipient has demonstrated substantial compliance with the requirements of paragraph (2), the Secretary may waive the imposition of sanctions authorized by this section upon such recipient. The Secretary is authorized to impose any sanction consistent with the provisions of this Act and any applicable Federal or State law directly against any subgrantee for violation of this Act or the regulations under this Act.

(f) In emergency situations, if the Secretary determines it is necessary to protect the integrity of the funds or ensure the proper operation of the program, the Secretary may immediately terminate or suspend financial assistance, in whole or in part, if the recipient is given prompt notice and the opportunity for a subsequent hearing within 30 days after such termination or suspension. The Secretary shall not delegate any of the functions or authority specified in this subsection, other than to an officer whose appointment was required to be made by and with the advice and consent of the Senate.

(g) If the Secretary determines that any recipient under this Act has discharged or in any other manner discriminated against a participant or against any individual in connection with the administration of the program involved, or against any individual because such individual has filed any complaint or instituted or caused to be instituted any proceeding under or related to this Act, or has testified or is about to testify in any such proceeding or investigation under or related to this Act, or otherwise unlawfully denied to any individual a benefit to which that individual is entitled under the provisions of this Act or the Secretary's regulations, the Secretary shall, within thirty days, take such action or order such corrective measures, as necessary, with respect to the recipient or the aggrieved individual, or both.

(h) The remedies under this section shall not be construed to be exclusive remedies.

REPORTS, RECORDKEEPING, AND INVESTIGATIONS

SEC. 165. (a)(1) Recipients shall keep records that are sufficient to permit the preparation of reports required by this Act and to permit the tracing of funds to a level of expenditure adequate to insure that the funds have not been spent unlawfully.

(2) Every recipient shall maintain such records and submit such reports, in such form and containing such information, as the Secretary requires regarding the performance of its programs. Such records and reports shall be submitted to the Secretary but shall not be required to be submitted more than once each quarter unless specifically requested by the Congress or a committee thereof.

(b)(1)(A) In order to evaluate compliance with the provisions of this Act, the Secretary shall conduct, in several States, in each fiscal year investigations of the use of funds received by recipients under this Act.

(B) In order to insure compliance with the provisions of this Act, the Comptroller General of the United States may conduct investigations of the use of funds received under this Act by any recipient.

(2) In conducting any investigation under this Act, the Secretary or the Comptroller General of the United States may not request the compilation of any new information not readily available to such recipient.

(c) Each State, each administrative entity designated under title I, and each recipient (other than a subrecipient, grantee or contractor of a recipient) receiving funds under this Act shall—

(1) make such reports concerning its operations and expenditures as shall be prescribed by the Secretary, and

(2) prescribe and maintain a management information system, in accordance with guidelines prescribed by the Secretary, designed to facilitate the uniform compilation and analysis of programmatic and financial data, on statewide and service delivery area bases, necessary for reporting, monitoring, and evaluating purposes.

ADMINISTRATIVE ADJUDICATION

SEC. 166. (a) Whenever any applicant for financial assistance under this Act is dissatisfied because the Secretary has made a determination not to award financial assistance in whole or in part to such applicant, the applicant may request a hearing before an administrative law judge of the Department of Labor. A similar hearing may also be requested by any recipient upon whom a corrective action or a sanction has been imposed by the Secretary. Except to the extent provided for in section 167, all other disputes arising under this Act shall be adjudicated under grievance procedures established by the recipient or under applicable law other than this Act.

(b) The decision of the administrative law judge shall constitute final action by the Secretary unless, within 20 days after receipt of the decision of the administrative law judge, a party dissatisfied with the decision or any part thereof has filed exceptions with the Secretary specifically identifying the procedure, fact, law, or policy to which exception is taken. Any exception not specifically urged shall be deemed to have been waived. Thereafter the decision of the

administrative law judge shall become the final decision of the Secretary unless the Secretary, within 30 days of such filing, has notified the parties that the case has been accepted for review.

(c) Any case accepted for review by the Secretary shall be decided within one hundred and eighty days of such acceptance. If not so decided, the decision of the administrative law judge shall become the final decision of the Secretary.

(d) The provisions of section 168 of this Act shall apply to any final action of the Secretary under this section.

NONDISCRIMINATION

SEC. 167. (a)(1) For the purpose of applying the prohibitions against discrimination on the basis of age under the Age Discrimination Act of 1975, on the basis of handicap under section 504 of the Rehabilitation Act, on the basis of sex under title IX of the Education Amendments of 1972, or on the basis of race, color, or national origin under title VI of the Civil Rights Act of 1964, programs and activities funded or otherwise financially assisted in whole or in part under this Act are considered to be programs and activities receiving Federal financial assistance.

(2) No individual shall be excluded from participation in, denied the benefits of, subjected to discrimination under, or denied employment in the administration of or in connection with any such program because of race, color, religion, sex, national origin, age, handicap, or political affiliation or belief.

(3) Participants shall not be employed on the construction, operation, or maintenance of so much of any facility as is used or to be used for sectarian instruction or as a place for religious worship.

(4) With respect to terms and conditions affecting, or rights provided to, individuals who are participants in activities supported by funds provided under this Act, such individuals shall not be discriminated against solely because of their status as such participants.

(5) Participation in programs and activities financially assisted in whole or in part under this Act shall be open to citizens and nationals of the United States, lawfully admitted permanent resident aliens, lawfully admitted refugees and parolees, and other individuals authorized by the Attorney General to work in the United States.

(b) Whenever the Secretary finds that a State or other recipient has failed to comply with a provision of law referred to in subsection (a)(1), with paragraph (2), (3), (4), or (5) of subsection (a), or with an applicable regulation prescribed to carry out such paragraphs, the Secretary shall notify such State or recipient and shall request it to comply. If within a reasonable period of time, not to exceed sixty days, the State or recipient fails or refuses to comply, the Secretary may—

(1) refer the matter to the Attorney General with a recommendation that an appropriate civil action be instituted;

(2) exercise the powers and functions provided by title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975, or section 504 of the Rehabilitation Act, as may be applicable; or

(3) take such other action as may be provided by law.

(c) When a matter is referred to the Attorney General pursuant to subsection (b)(1), or whenever the Attorney General has reason to believe that a State or other recipient is engaged in a pattern or practice in violation of a provision of law referred to in subsection (a)(1) or in violation of paragraph (2), (3), (4), or (5) of subsection (a), the Attorney General may bring a civil action in any appropriate district court of the United States for such relief as may be appropriate, including injunctive relief.

(d) For purposes of this section, Job Corps members shall be considered as the ultimate beneficiaries of Federal financial assistance.

JUDICIAL REVIEW

SEC. 168. (a)(1) With respect to any final order by the Secretary under section 166 whereby the Secretary determines to award, to not award, or to only conditionally award, financial assistance, with respect to any final order of the Secretary under section 166 with respect to a corrective action or sanction imposed under section 164, and with respect to a denial of an appeal under section 101(4)(C) or 105(b)(2), any party to a proceeding which resulted in such final order may obtain review of such final order in the United States Court of Appeals having jurisdiction over the applicant or recipient of funds, by filing a review petition within 30 days of such final order.

(2) The clerk of the court shall transmit a copy of the review petition to the Secretary who shall file the record upon which the final order was entered as provided in section 2112 of title 28, United States Code. Review petitions unless ordered by the court, shall not stay the Secretary's order. Petitions under this Act shall be heard expeditiously, if possible within ten days of the filing of a reply brief.

(3) No objection to the order of the Secretary shall be considered by the court unless the objection shall have been specifically and timely urged before the Secretary. Review shall be limited to questions of law and the Secretary's findings of fact shall be conclusive if supported by substantial evidence.

(b) The court shall have jurisdiction to make and enter a decree affirming, modifying, or setting aside the order of the Secretary in whole or in part. The court's judgment shall be final, subject to certiorari review by the Supreme Court of the United States as provided in section 1254(1) of title 28, United States Code.

ADMINISTRATIVE PROVISIONS

SEC. 169. (a) The Secretary may, in accordance with chapter 5 of title 5, United States Code, prescribe such rules and regulations (including performance standards) as the Secretary deems necessary. Such rules and regulations may include adjustments authorized by section 204 of the Intergovernmental Cooperation Act of 1968. All such rules and regulations shall be published in Federal Register at least thirty days prior to their effective date. Copies of all such rules and regulations shall be transmitted to the appropriate committees of the Congress at the same time and shall contain, with respect to each material provision of such rules and regulations, citations to the particular substantive section of law which is the basis therefor.

(b) The Secretary is authorized, in carrying out this Act, to accept, purchase, or lease in the name of the department, and employ or dispose of in furtherance of the purposes of this Act, any money or property, real, personal, or mixed, tangible or intangible, received by gift, devise, bequest, or otherwise, and to accept voluntary and uncompensated services notwithstanding the provisions of section 3679(b) of the Revised Statutes of the United States.

(c) The Secretary may make such grants, contracts, or agreements, establish such procedures and make such payments, in installments and in advance or by way of reimbursement, or otherwise allocate or expend funds under this Act as necessary to carry out this Act, including (without regard to the provisions of section 4774(d) of title 10, United States Code) expenditures for construction, repairs, and capital improvements, and including necessary adjustments in payments on account of overpayments or underpayments.

(d) The Secretary shall prepare and submit to the Congress an annual report for employment and training programs. The Secretary shall include in such report—

(1) a summary of the achievements, failures, and problems of the programs authorized in this Act in meeting the objective of this Act;

(2) a summary of major findings from research, evaluation, pilot projects, and experiments conducted in the previous fiscal year;

(3) recommendations for program modifications based upon analysis of such findings; and

(4) such other recommendations for legislative or administrative action as the Secretary deems appropriate.

(e) The Secretary shall develop methods to ascertain, and shall ascertain annually, energy development and conservation employment impact data by type and scale of energy technologies used. The Secretary shall present the best available data to the Secretary of Energy, the Secretary of Housing and Urban Development, and the Director of the Office of Management and Budget as part of the budgetary process and to the appropriate Committees of Congress annually.

UTILIZATION OF SERVICES AND FACILITIES

SEC. 170. The Secretary is authorized, in carrying out this Act, and to the extent permitted by law other than this Act, to accept and use the services and facilities of departments, agencies, and establishments of the United States. The Secretary is also authorized to accept and use the services and facilities of the agencies of any State or political subdivision of a State, with its consent.

OBLIGATIONAL AUTHORITY

SEC. 171. Notwithstanding any other provision of this Act, no authority to enter into contracts or financial assistance agreements under this Act shall be effective except to such extent or in such amount as are provided in advance in appropriation Acts.

PART E—MISCELLANEOUS PROVISIONS

TRANSITION

SEC. 181. (a) Except as otherwise provided in this section, the Secretary, from funds appropriated pursuant to this Act or pursuant to the Comprehensive Employment and Training Act, shall provide financial assistance under this Act in the same manner that such assistance was provided under the Comprehensive Employment and Training Act (as in effect on the day before the enactment of this Act) until September 30, 1983.

(b) The Commission established by title V of the Comprehensive Employment and Training Act shall continue to be authorized until September 30, 1983, and on such date the personnel, property, and records of such Commission shall be transferred to the Commission established by part F of title IV of this Act.

(c) Notwithstanding the provisions of subsection (a), Governors, prime sponsors, and other recipients of financial assistance under this Act, or under the Comprehensive Employment and Training Act, may expend funds received under this Act, or under the Comprehensive Employment and Training Act, prior to October 1, 1983, in order to—

(1) administer consolidated programs formed by the combining of programs previously administered under different titles, parts, and subparts of the Comprehensive Employment and Training Act;

(2) establish for new participants, in accordance with the eligibility criteria for title II of this Act, uniform eligibility criteria and other provisions relating to participation for programs consolidated pursuant to paragraph (1);

(3) conduct planning for any program or activity authorized under this Act; and

(4) conduct any other activity deemed necessary by the recipient to provide for an orderly transition to the operation, as of October 1, 1983, of programs under this Act.

(d) All orders, determinations, rules, regulations, permits, grants, contracts, certificates, licenses, and privileges, which have been issued under the Comprehensive Employment and Training Act (as in effect on the date before the date of enactment of this Act), or which are issued under that Act on or before September 30, 1983, shall continue in effect until modified or revoked by the Secretary, by a court of competent jurisdiction, or by operation of law other than this Act.

(e) The provisions of this Act shall not affect administrative or judicial proceedings pending on the date of enactment of this Act, or begun between the date of enactment of this Act and September 30, 1984, under the Comprehensive Employment and Training Act.

(f) (1) By January 1, 1983, the Secretary shall have published in the Federal Register final regulations governing the establishment of the State job training coordinating councils and the designation of service delivery areas.

(2) By January 15, 1983, the Secretary shall have published in the Federal Register final regulations governing the establishment of private industry councils.

(3) By March 15, 1983, the Secretary shall have published in the Federal Register final regulations governing all aspects of programs under title II of this Act not described in paragraphs (1) and (2) of this subsection.

(4) All other regulations for programs under this Act shall take effect no later than October 1, 1983.

(5) Pursuant to section 169(a) of this Act the rules described in paragraphs (1), (2), and (3) of this subsection shall take effect thirty days after publication. In promulgating the rules described in paragraphs (1), (2), and (3), the Secretary shall be exempt from all requirements of law regarding rulemaking procedures except that such rules, prior to their publication in final form, shall be published in the Federal Register for comment for thirty days in the case of rules under paragraphs (2) and (3) and twenty days in the case of rules under paragraph (1).

(6) The Secretary may subsequently modify rules issued pursuant to paragraphs (1), (2), and (3) but, with respect to the program period October 1, 1983, to June 30, 1984, such subsequent rules shall not affect the legitimacy of any State job training coordinating council or private industry council, or the composition of any service delivery area, established under the rules issued pursuant to paragraphs (1) or (2). In addition, with respect to the program period October 1, 1983, to June 30, 1984, no modifications of the rules published pursuant to paragraph (3) shall be effective unless they are published in final form by May 15, 1983.

(7) Upon the certification of any private industry council under section 102(g) the Secretary, from discretionary funds appropriated under this Act or Comprehensive Employment Training Act, for fiscal year 1983, may provide up to $80,000 to each such council to assist it in performing its functions under section 103.

(g) Notwithstanding any other provision of law, any real or nonexpendable personal property, which was acquired on or before September 30, 1983, by prime sponsors (including by their contractors or subrecipients) with funds under the Comprehensive Employment and Training Act or under this Act, and with respect to which the Secretary reserved the right to take title, shall be transferred, as of October 1, 1983, from such prime sponsors to the custody of the entity which is administering programs under title II of this Act in the geographic area in which such property is located. Such transfer shall be subject to the Secretary's rights in such property, which shall continue unchanged.

(h) Funds for fiscal year 1982 allocated to areas served by prime sponsors or to other recipients under the Comprehensive Employment and Training Act, which were not obligated by the prime sponsor or other recipient prior to the end of such fiscal year, shall remain available for obligation by the prime sponsor or other recipient during fiscal year 1983. No reduction shall be made in the allocation for any area served by such a prime sponsor from appropriations to carry out this Act for fiscal year 1983 on account of the carryover of such funds from fiscal year 1982 to fiscal year 1983.

(i) The amendments made by sections 501 and 502 shall be effective October 1, 1983, but, the Secretary is authorized to use funds appropriated for fiscal year 1983 to plan for the orderly implementation of such amendments.

(j)(1) In order to facilitate the development of a service delivery area's job training plan for the program period October 1, 1983, to June 30, 1984, the various time limits contained in this Act which pertain to the planning process shall not be applicable, except that the job training plan must be submitted to the Governor by August 31, 1983. This provision shall apply only to the time limits and shall not apply to any of the required planning procedures, or to the required chronological order of such procedures except that the job training plan and budget need only be for the October 1, 1983 to June 30, 1984 program period.

(2) In order to facilitate planning for the program period October 1, 1983, to June 30, 1984, the local agreement or agreements between the private industry council and the appropriate chief elected official or officials may provide for interim procedures applicable only to that program. Such interim agreements may also, notwithstanding the provisions of section 107, authorize service deliverers under the Comprehensive Employment and Training Act or under this Act during fiscal year 1983 to continue as service deliverers under the program as established by this Act for such period.

(3) The performance standards described in section 106 shall apply to service delivery areas for the program period October 1, 1983, to June 30, 1984. No service delivery area, however, shall suffer a penalty for not meeting such standards during that initial program period.

(k) All participants who are in programs funded under this Act, or under the Comprehensive Employment and Training Act, on September 30, 1983, shall be eligible to continue to participate in such programs, provided such programs have been approved for funding under the service delivery area's newly effective job training plan.

CRIMINAL PROVISIONS

SEC. 182. Section 665 of title 18, United States Code, is amended to read as follows:

"THEFT OR EMBEZZLEMENT FROM EMPLOYMENT AND TRAINING FUNDS: IMPROPER INDUCEMENT: OBSTRUCTION OF INVESTIGATIONS

"SEC. 665. (a) Whoever, being an officer, director, agent, or employee of, or connected in any capacity with any agency or organization receiving financial assistance or any funds under the Comprehensive Employment and Training Act or the Job Training Partnership Act knowingly enrolls an ineligible participant, embezzles, willfully misapplies, steals, or obtains by fraud any of the moneys, funds, assets, or property which are the subject of a financial assistance agreement or contract pursuant to such Act shall be fined not more than $10,000 or imprisoned for not more than 2 years, or both; but if the amount so embezzled, misapplied, stolen, or obtained by fraud does not exceed $100, such person shall be fined not more than $1,000 or imprisoned not more than 1 year, or both.

"(b) Whoever, by threat or procuring dismissal of any person from employment or of refusal to employ or refusal to renew a contract of employment in connection with a financial assistance agreement or contract under the Comprehensive Employment and Training Act or

the Job Training Partnership Act induces any person to give up any money or thing of any value to any person (including such organization or agency receiving funds) shall be fined not more than $1,000, or imprisoned not more than 1 year, or both.

"(c) Any person whoever willfully obstructs or impedes or willfully endeavors to obstruct or impede, an investigation or inquiry under the Comprehensive Employment and Training Act or the Job Training Partnership Act, or the regulations thereunder, shall be punished by a fine of not more than $5,000, or by imprisonment for not more than 1 year, or by both such fine and imprisonment.".

REFERENCE

SEC. 183. Effective on the date of enactment of this Act, all references in any other statute other than this Act, and other than in section 665 of title 18, United States Code, to the Comprehensive Employment and Training Act shall be deemed to refer to the Job Training Partnership Act.

REPEALERS

SEC. 184. (a) Effective on the date of enactment of this Act—

(1) the Comprehensive Employment and Training Act is repealed;

(2) section 5(b) of the Comprehensive Employment and Training Act Amendments of 1978 is repealed.

TITLE II—TRAINING SERVICES FOR THE DISADVANTAGED

PART A—ADULT AND YOUTH PROGRAMS

ALLOTMENT

SEC. 201. (a) Not more than $5,000,000 of the amount appropriated pursuant to section 3(a)(1) for each fiscal year and available for this part shall be allotted among Guam, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, and the Northern Mariana Islands.

(b)(1) Subject to the provisions of paragraph (2), of the remainder of the amount available for this part for each fiscal year—

(A) 33⅓ percent shall be allotted on the basis of the relative number of unemployed individuals residing in areas of substantial unemployment in each State as compared to the total number of such unemployed individuals in all such areas of substantial unemployment in all the States;

(B) 33⅓ percent shall be allotted on the basis of the relative excess number of unemployed individuals who reside in each State as compared to the total excess number of unemployed individuals in all the States;

(C) 33⅓ percent shall be allotted on the basis of the relative number of economically disadvantaged individuals within the State compared to the total number of economically disadvantaged individuals in all States, except that, for the allotment for any State in which there is any service delivery area described in section 101(a)(4)(A)(iii), the allotment shall be based on the higher of the number of adults in families with an income below the low-income level in such area or the number of economically disadvantaged individuals in such area.

(2)(A) No State shall receive less than one-quarter of 1 percent of the amounts available for allotment under this subsection for each such fiscal year.

(B) No State shall be allotted less than 90 percent of its allotment percentage for the fiscal year preceding the fiscal year for which the determination is made. For the purpose of this subparagraph, the allotment percentage for each State for the fiscal year 1982 is the percent that each State received in 1982, pursuant to the formula allocations made under the Comprehensive Employment and Training Act, of the total such formula allocations for all States made under that Act in fiscal year 1982. For each succeeding fiscal year, the allotment percentage of a State shall be the percentage which the State received of all allotments pursuant to this subsection.

(3) For purposes of paragraph (1)—

(A) the term "excess number" means the number which represents the number of unemployed individuals in excess of 4.5 per-

cent of the civilian labor force in the State, or the number which represents the number of unemployed individuals in excess of 4.5 percent of the civilian labor force in areas of substantial unemployment in such State; and

(B) the term "economically disadvantaged" means an individual who has, or is a member of a family which has, received a total family income (exclusive of unemployment compensation, child support payments, and welfare payments) which, in relation to family size, was not in excess of the higher of (i) the poverty level determined in accordance with criteria established by the Director of the Office of Management and Budget, or (ii) 70 percent of the lower living standard income level.

WITHIN STATE ALLOCATION

SEC. 202. (a) (1) The Governor shall, in accordance with section 162, allocate 78 percent of the allotment of the State (under section 201 (b)) for such fiscal year among service delivery areas within the State in accordance with paragraph (2).

(2) Of the amount allocated under this subsection—

(A) 33⅓ percent shall be allocated on the basis of the relative number of unemployed individuals residing in areas of substantial unemployment in each service delivery area as compared to the total number of such unemployed individuals in all such areas of substantial unemployment in the State;

(B) 33⅓ percent shall be allocated on the basis of the relative excess number of unemployed individuals who reside in each service delivery area as compared to the total excess number of unemployed individuals in all service delivery areas in the State;

(C) 33⅓ percent shall be allocated on the basis of the relative number of economically disadvantaged individuals within each service delivery area compared to the total number of economically disadvantaged individuals in the State, except that the allocation for any service delivery area described in section 101 (a) (4) (A) (iii) shall be based on the higher of the number of adults in families with an income below the low-income level in such area or the number of economically disadvantaged individuals in such area.

(3) For the purpose of this section—

(A) the term "excess number" means the number which represents the number of unemployed individuals in excess of 4.5 percent of the civilian labor force in the service delivery area or the number which represents the number of unemployed individuals in excess of 4.5 percent of the civilian labor force in areas of substantial unemployment in such service delivery area; and

(B) the term "economically disadvantaged" means an individual who has, or is a member of a family which has, received a total family income (exclusive of unemployment compensation, child support payments, and welfare payments) which, in relation to family size, was not in excess of the higher of (i) the poverty level determined in accordance with criteria established by the Director of the Office of Management and Budget, or (ii) 70 percent of the lower living standard income level.

(b)(1) Eight percent of the allotment of each State (under section 201(b)) for each fiscal year shall be available to carry out section 123, relating to State education programs under this Act.

(2) Three percent of such allotment of each State for each fiscal year shall be available to carry out section 124, relating to training programs for older individuals.

(3)(A) Six percent of such allotment of each State for each fiscal year shall be available to carry out subparagraph (B) of this paragraph.

(B) The amount reserved under subparagraph (A) of this paragraph shall be used by the Governor to provide incentive grants for programs exceeding performance standards, including incentives for serving hard-to-serve individuals. The incentive grants made under this subparagraph shall be distributed among service delivery areas within the State exceeding their performance standards in an equitable proportion based on the degree by which the service delivery areas exceed their performance standards. If the full amount reserved under subparagraph (A) of this paragraph is not needed to make incentive grants under this subparagraph, the Governor shall use the amount not so needed for technical assistance to service delivery areas in the State which do not qualify for incentive grants under this subparagraph.

(4) Five percent of such allotment of the State for each fiscal year shall be available to the Governor of the State to be used for the cost of auditing activities, for administrative activities, and for other activities under sections 121 and 122.

ELIGIBILITY FOR SERVICES

SEC. 203. (a)(1) Except as provided in paragraph (2), an individual shall be eligible to participate in programs receiving assistance under this title only if such individual is economically disadvantaged.

(2) Up to 10 percent of the participants in all programs in a service delivery area receiving assistance under this part may be individuals who are not economically disadvantaged if such individuals have encountered barriers to employment. Such individuals may include, but are not limited to, those who have limited English-language proficiency, or are displaced homemakers, school dropouts, teenage parents, handicapped, older workers, veterans, offenders, alcoholics, or addicts.

(b)(1) Funds provided under this part shall be used in accordance with the job training plan to provide authorized services to disadvantaged youth and adults. Except as provided in paragraph (2), not less than 40 percent of the funds available for such services shall be expended to provide such services to eligible youth.

(2) To the extent that the ratio of economically disadvantaged youth to economically disadvantaged adults in the service delivery area differs from the ratio of such individuals nationally (as published by the Secretary), the amount which shall be required to be expended for services for youth under paragraph (1) shall be reduced or increased proportionately in accordance with regulations prescribed by the Secretary.

(3) Recipients of payments made under the program of aid to families with dependent children under a State plan approved under part A of title IV of the Social Security Act who are required to, or

have, registered under section 402(a)(19) of that Act and eligible school dropouts shall be served on an equitable basis, taking into account their proportion of economically disadvantaged persons sixteen years of age or over in the area. For purposes of this paragraph, a school dropout is an individual who is neither attending any school nor subject to a compulsory attendance law and who has not received a secondary school diploma or a certificate from a program of equivalency for such a diploma.

(4) In each service delivery area the ratio of participants in on-the-job training assisted under this title in the public sector to participants in such training in the private sector shall not exceed the ratio between civilian governmental employment and nongovernmental employment in such area.

(c) For purposes of this title—

(1) the term "youth" means an individual who is aged 16 through 21, and

(2) the term "adult" means an individual who is 22 years of age or older.

USE OF FUNDS

SEC. 204. Services which may be made available to youth and adults with funds provided under this title may include, but need not be limited to—

(1) job search assistance,

(2) job counseling,

(3) remedial education and basic skills training,

(4) institutional skill training,

(5) on-the-job training,

(6) programs of advanced career training which provide a formal combination of on-the-job and institutional training and internship assignments which prepare individuals for career employment,

(7) training programs operated by the private sector, including those operated by labor organizations or by consortia of private sector employers utilizing private sector facilities, equipment, and personnel to train workers in occupations for which demand exceeds supply,

(8) outreach to make individuals aware of, and encourage the use of employment and training services,

(9) specialized surveys not available through other labor market information sources,

(10) programs to develop work habits and other services to individuals to help them obtain and retain employment,

(11) supportive services necessary to enable individuals to participate in the program and to assist them in retaining employment for not to exceed 6 months following completion of training,

(12) upgrading and retraining,

(13) education-to-work transition activities,

(14) literacy training and bilingual training,

(15) work experience,

(16) vocational exploration,

(17) attainment of certificates of high school equivalency,

(18) job development,

(19) employment generating activities to increase job opportunities for eligible individuals in the area,

(20) pre-apprenticeship programs,

(21) disseminating information on program activities to employers,

(22) use of advanced learning technology for education, job preparation, and skills training,

(23) development of job openings,

(24) on-site industry-specific training programs supportive of industrial and economic development,

(25) followup services with participants placed in unsubsidized employment,

(26) coordinated programs with other Federal employment-related activities,

(27) needs-based payments necessary to participation in accordance with a locally developed formula or procedure, and

(28) customized training conducted with a commitment by an employer or group of employers to employ an individual upon successful completion of that training.

EXEMPLARY YOUTH PROGRAMS

SEC. 205. (a) In addition to the services for youth which may be available in accordance with section 204, the job training plan may, at the option of those responsible for its preparation, elect to include one or more of the exemplary youth programs described in subsections (b) through (e) of this section, each of which may be modified by the plan to accommodate local conditions.

(b)(1) The job training plan may provide for the conduct of an "education for employment program" for eligible youth who have not attained a high school diploma or who have educational deficiencies despite the attainment of a diploma, with priority given to high school dropouts.

(2) The education for employment programs may provide for the maintenance of a network of learning centers offering individualized or group instruction in convenient locations, such as schools, neighborhood organizations, libraries, and other sites, including mobile vans in rural areas.

(3) The curricula provided by such network shall be designed to prepare the student to meet State and locally determined general education diploma and basic education competency requirements.

(4) For purposes of this section, priority shall be given in the selection of service providers to previously funded in-school and community based organization projects which are both cost-effective and of demonstrated success, and which otherwise meet criteria under this Act.

(c)(1) The job training plan may provide for the conduct of a "preemployment skills training program" for youth, and individuals aged 14 and 15, with priority being given to those individuals who do not meet established levels of academic achievement and who plan to enter the full-time labor market upon leaving school.

(2) The preemployment skill training program may provide youth up to 200 hours of instruction and activities.

(3) The instruction and activities may include—

(A) assessment, testing, and counseling;

(B) occupational career and vocational exploration;

(C) job search assistance;

(D) job holding and survival skills training;

(E) basic life skills training;

(F) remedial education;

(G) labor market information; and

(H) job-seeking skills training.

(d)(1) The job training plan may provide for the conduct of an "entry employment experience program" for youth who—

(A) have completed preemployment skills training or its equivalent;

(B) have not recently held a regular part-time or summer job for more than 250 hours of paid employment, except that this paragraph may be waived in accordance with criteria established in the job training plan; and

(C) are enrolled in a secondary school or an institution offering a certified high school equivalency program and are meeting or have met the minimum academic and attendance requirements of that school or education program during the current or most recent term, with priority given to youth who do not plan to continue on to post secondary education.

(2) Entry employment experiences may be up to 20 hours weekly during the school year or full time during the summer and holidays, for a total of not to exceed 500 hours of entry employment experience for any individual. Such experiences shall be appropriately supervised, including the maintenance of standards of attendance and worksite performance.

(3) Entry employment experiences may be one of the following types:

(A) Full-time employment opportunities in public and private nonprofit agencies during the summer and on a part-time basis in combination with education and training activities. These jobs shall provide community improvement services that complement local expenditures.

(B) Tryout employment at private for-profit worksites or at public and private nonprofit worksites when private for-profit worksites are not available. Compensation in lieu of wages for tryout employment shall be paid by the grant recipient, but the length of any assignment to a tryout employment position shall not exceed 250 hours. Tryout employment positions shall be ones for which participants would not usually be hired (because of lack of experience or other barriers to employment), and vacancies in such positions may not be refilled if the previous participant completed the tryout employment but was not hired by the employer.

(C) Cooperative education programs to coordinate educational programs with work in the private sector.

(e)(1) The job training plan may provide for the conduct of a "school-to-work transition assistance program" for youth who are—

(A) high school seniors who plan to enter the full-time labor market upon graduation, with priority to seniors in high schools

having a predominance of students from families with incomes below 70 percent of the lower living standard income level; and

(B) dropouts, with followup as immediately as possible after leaving school.

(2) Transition services include—

(A) provision of occupational information;

(B) short-duration job search assistance;

(C) job clubs;

(D) placement and job development; and

(E) followup.

(3) Seniors and dropouts who are eligible for and in need of training activities may be provided information and, where appropriate, referred to—

(A) preemployment skills training, entry employment experience, and remedial education;

(B) adult training activities; and

(C) the Job Corps.

Part B—Summer Youth Employment and Training Programs

authorization of appropriations; allotment and allocation

Sec. 251. (a) From the funds appropriated under section 3(b), the Secretary shall first allocate to Guam, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, the Northern Mariana Islands, and entities eligible under section 401 the same percentage of funds as were available to such areas and entities for the summer youth program in the fiscal year preceding the fiscal year for which the determination is made.

(b) The remainder of sums appropriated pursuant to section 3(b) shall be allotted among States in accordance with section 201(b) and allocated among service delivery areas within States in accordance with section 202(a)(2) and (3).

use of funds

Sec. 252. Funds available under this part may be used for—

(1) basic and remedial education, institutional and on-the-job training, work experience programs, employment counseling, occupational training preparation for work, outreach and enrollment activities, employability assessment, job referral and placement, job search and job club activities, and any other employment or job training activity designed to give employment to eligible individuals or prepare them for, and place them in, employment; and

(2) supportive services necessary to enable such individuals to participate in the program.

limitations

Sec. 253. (a) Programs under this part shall be conducted during the summer months.

(b) Except as provided in subsection (c), individuals eligible under this part shall be economically disadvantaged youth.

14-064 O - 83 - 4

(c) Eligible individuals aged 14 or 15 shall, if appropriate and set forth in the job training plan, be eligible for summer youth programs under this part.

APPLICABLE PROVISIONS

SEC. 254. Private industry councils established under title I, chief elected officials, State job training coordinating councils, and Governors shall have the same authority, duties, and responsibilities with respect to planning and administration of funds available under this part as private industry councils, chief elected officials, State job training coordinating councils, and Governors have for funds available under part A of title II.

TITLE III—EMPLOYMENT AND TRAINING ASSISTANCE FOR DISLOCATED WORKERS

ALLOCATION OF FUNDS

SEC. 301. (a) From the amount appropriated to carry out this title for any fiscal year, the Secretary may reserve up to 25 percent of such amount for use by the States in accordance with subsection (c).

(b) The Secretary shall allot the remainder of the amount appropriated to carry out this title for any fiscal year among the States as follows:

(1) One-third of the remainder of such amount shall be allotted among the States on the basis of the relative number of unemployed individuals who reside in each State as compared to the total number of unemployed individuals in all the States.

(2) One-third of the remainder of such amount shall be allotted among the States on the basis of the relative excess number of unemployed individuals who reside in each State as compared to the total excess number of unemployed individuals in all the States. For purposes of this paragraph, the term "excess number" means the number which represents unemployed individuals in excess of 4.5 percent of the civilian labor force in the State.

(3) One-third of the remainder of such amount shall be allotted among the States on the basis of the relative number of individuals who have been unemployed for fifteen weeks or more and who reside in each State as compared to the total number of such individuals in all the States.

(c) The Secretary shall make available the sums reserved under subsection (a) for the purpose of providing training, retraining, job search assistance, placement, relocation assistance, and other aid (including any activity authorized by section 303) to individuals who are affected by mass layoffs, natural disasters, Federal Government actions (such as relocations of Federal facilities), or who reside in areas of high unemployment or designated enterprise zones. In order to qualify for assistance from funds reserved by the Secretary under subsection (a), a State shall, in accordance with regulations promulgated by the Secretary establishing criteria for awarding assistance from such funds, submit an application identifying the need for such assistance and the types of, and projected results expected from, activities to be conducted with such funds.

(d) The Secretary is authorized to reallot any amount of any allotment to a State to the extent that the Secretary determines that the State will not be able to obligate such amount within one year of allotment.

IDENTIFICATION OF DISLOCATED WORKERS

SEC. 302. (a) Each State is authorized to establish procedures to identify substantial groups of eligible individuals who—

(1) have been terminated or laid-off or who have received a notice of termination or lay-off from employment, are eligible for or have exhausted their entitlement to unemployment compensation, and are unlikely to return to their previous industry or occupation;

(2) have been terminated, or who have received a notice of termination of employment, as a result of any permanent closure of a plant or facility; or

(3) are long-term unemployed and have limited opportunities for employment or reemployment in the same or a similar occupation in the area in which such individuals reside, including any older individuals who may have substantial barriers to employment by reason of age.

(b) The State may provide for the use of the private industry councils established under title I of this Act to assist in making the identification established under subsection (a).

(c)(1) Whenever a group of eligible individuals is identified under subsection (a), the State, with the assistance of the private industry council, shall determine what, if any, job opportunities exist within the local labor market area or outside the labor market area for which such individuals could be retrained.

(2) The State shall determine whether training opportunities for such employment opportunities exist or could be provided within the local labor market area.

(d) Whenever training opportunities pursuant to subsection (c) are identified, information concerning the opportunities shall be made available to the individuals. The acceptance of training for such opportunities shall be deemed to be acceptance of training with the approval of the State within the meaning of any other provision of Federal law relating to unemployment benefits.

AUTHORIZED ACTIVITIES

SEC. 303. (a) Financial assistance provided to States under this title may be used to assist eligible individuals to obtain unsubsidized employment through training and related employment services which may include, but are not limited to—

(1) job search assistance, including job clubs,

(2) job development,

(3) training in jobs skills for which demand exceeds supply,

(4) supportive services, including commuting assistance and financial and personal counseling,

(5) pre-layoff assistance,

(6) relocation assistance, and

(7) programs conducted in cooperation with employers or labor organizations to provide early intervention in the event of closures of plants or facilities.

(b) Relocation assistance may be provided if the State determines (1) that the individual cannot obtain employment within the individual's commuting area, and (2) that the individual has secured suitable long-duration employment or obtained a bona fide job offer in a relocation area in a State.

MATCHING REQUIREMENT

SEC. 304. (a)(1) In order to qualify for financial assistance under this title, a State shall demonstrate, to the satisfaction of the Secretary, that it will expend for purposes of services assisted under this title, an amount from public or private non-Federal sources equal to the amount made available to that State under section 301(b).

(2) Whenever the average rate of unemployment for a State is higher than the average rate of unemployment for all States, the non-Federal matching funds described in paragraph (1) required to be provided by such State for that fiscal year shall be reduced by 10 percent for each 1 percent, or portion thereof, by which the average rate of unemployment for that State is greater than the average rate of unemployment for all States.

(3) The Secretary shall determine the average rate of unemployment for a State and the average rate of unemployment for all States for each fiscal year on the basis of the most recent twelve-month period prior to that fiscal year.

(b)(1) Such non-Federal matching funds shall include the direct cost of employment or training services under this title provided by State or local programs (such as vocational education), private nonprofit organizations, or private for-profit employers.

(2) Funds expended from a State fund to provide unemployment insurance benefits to an eligible individual for purposes of this title and who is enrolled in a program of training or retraining under this title may be credited for up to 50 percent of the funds required to be expended from non-Federal sources as required by this section.

PROGRAM REVIEW

SEC. 305. Except for programs of assistance operated on a statewide or industry-wide basis, no program of assistance conducted with funds made available under this title may be operated within any service delivery area without a 30-day period for review and recommendation by the private industry council and appropriate chief elected official or officials for such area. The State shall consider the recommendation of such private industry council and chief elected official or officials before granting final approval of such program, and in the event final approval is granted contrary to such recommendation, the State shall provide the reasons therefor in writing to the appropriate private industry council and chief elected official or officials.

CONSULTATION WITH LABOR ORGANIZATIONS

SEC. 306. Any assistance program conducted with funds made available under this title which will provide services to a substantial number of members of a labor organization shall be established only after full consultation with such labor organization.

LIMITATIONS

SEC. 307. (a) Except as provided in subsection (b), there shall be available for supportive services, wages, allowances, stipends, and

costs of administration, not more than 30 percent of the Federal funds available under this title in each State.

(b) The funds to which the limitation described in subsection (a) applies shall not include the funds referred to in section 301(a). In no event shall such limitation apply to more than 50 percent of the total amount of Federal and non-Federal funds available to a program.

STATE PLANS; COORDINATION WITH OTHER PROGRAMS

SEC. 308. Any State which desires to receive financial assistance under this title shall submit to the Secretary a plan for the use of such assistance which shall include appropriate provisions for the coordination of programs conducted with such assistance with low-income weatherization and other energy conservation programs, and social services in accordance with the provisions of section 121.

TITLE IV—FEDERALLY ADMINISTERED PROGRAMS

PART A—EMPLOYMENT AND TRAINING PROGRAMS FOR NATIVE AMERICANS AND MIGRANT AND SEASONAL FARMWORKERS

NATIVE AMERICAN PROGRAMS

SEC. 401. (a) The Congress finds that (1) serious unemployment and economic disadvantages exist among members of Indian, Alaskan Native, and Hawaiian Native communities; (2) there is a compelling need for the establishment of comprehensive training and employment programs for members of those communities; and (3) such programs are essential to the reduction of economic disadvantages among individual members of those communities and to the advancement of economic and social development in the communities consistent with their goals and lifestyles.

(b) The Congress therefore declares that, because of the special relationship between the Federal Government and most of the individuals to be served by the provisions of this section, (1) such programs shall be administered at the national level; (2) such programs shall be available to federally recognized Indian tribes, bands, and groups and to other groups and individuals of Native American descent; and (3) such programs shall be administered in such a manner as to maximize the Federal commitment to support growth and development as determined by representatives of the communities and groups served by this section.

(c)(1)(A) In carrying out responsibilities under this section, the Secretary shall, wherever possible, utilize Indian tribes, bands, or groups on Federal or State reservations, Oklahoma Indians, and including for the purpose of this Act, Alaska Native villages or groups as defined in the Alaska Native Claims Settlement Act, having a governing body for the provision of employment and training services under this section. When the Secretary determines that such tribe, band, or group has demonstrated the capability to effectively administer a comprehensive employment and training program, the Secretary shall require such tribe, band, or group to submit a comprehensive plan meeting such requirements as the Secretary prescribes.

(B) The Secretary shall arrange for programs to meet the employment and training needs of Hawaiian natives through such organizations as the Secretary determines will best meet their needs.

(2) In carrying out responsibilities under this section, the Secretary shall make arrangements with organizations (meeting requirements prescribed by the Secretary) serving nonreservation Native Americans for programs and projects designed to meet the needs of such Native Americans for employment and training and related services.

(d) Whenever the Secretary determines not to utilize Indian tribes, bands, or groups for the provision of employment and training services under this section, the Secretary shall, to the maximum extent

feasible, enter into arrangements for the provision of such services with organizations which meet with the approval of the tribes, bands, or groups to be served.

(e) The Secretary is directed to take appropriate action to establish administrative procedures and machinery (including personnel having particular competence in this field) for the selection, administration, monitoring, and evaluation of Native American employment and training programs authorized under this Act.

(f) Funds available for this section shall be expended for programs and activities consistent with the purposes of this section including but not limited to such programs and activities carried out by recipients under other provisions of this Act.

(g) No provision of this section shall abrogate in any way the trust responsibilities of the Federal Government to Native American bands, tribes, or groups.

(h)(1) The Secretary shall, after consultation with representatives of Indians and other Native Americans, prescribe such rules, regulations, and performance standards relating to Native American programs under this section as may be required to meet the special circumstances under which such programs operate.

(2) Recipients of funds under this section shall establish performance goals, which shall, to the extent required by the Secretary, comply with performance standards established by the Secretary pursuant to section 106.

(i) The Secretary shall provide technical assistance as necessary to tribes, bands, and groups eligible for assistance under this section.

(j) For the purpose of carrying out this section, the Secretary shall reserve, from funds available for this title (other than part B) for any fiscal year, an amount equal to 3.3 percent of the amount available for part A of title II of this Act for such fiscal year.

MIGRANT AND SEASONAL FARMWORKER PROGRAMS

SEC. 402. (a) The Congress finds and declares that—

(1) chronic seasonal unemployment and underemployment in the agricultural industry, aggravated by continual advancements in technology and mechanization resulting in displacement, constitute a substantial portion of the Nation's rural employment problem and substantially affect the entire national economy; and

(2) because of the special nature of farmworker employment and training problems, such programs shall be centrally administered at the national level.

(b) The Secretary is directed to take appropriate action to establish administrative procedures and machinery (including personnel having particular competence in this field) for the selection, administration, monitoring, and evaluation of migrant and seasonal employment and training programs authorized under this Act.

(c)(1) The Secretary shall provide services to meet the employment and training needs of migrant and seasonal farmworkers through such public agencies and private nonprofit organizations as the Secretary determines to have an understanding of the problems of migrant and seasonal farmworkers, a familiarity with the area to be served, and a previously demonstrated capability to administer effectively a diversified employability development program for migrant and sea-

sonal farmworkers. In awarding any grant or contract for services under this section, the Secretary shall use procedures consistent with standard competitive Government procurement policies.

(2) The Secretary may approve the designation of grantees under this section for a period of two years.

(3) Programs and activities supported under this section, including those carried out under other provisions of this Act, shall enable farmworkers and their dependents to obtain or retain employment, to participate in other program activities leading to their eventual placement in unsubsidized agricultural or nonagricultural employment, and to participate in activities leading to stabilization in agricultural employment, and shall include related assistance and supportive services.

(4) Recipients of funds under this section shall establish performance goals, which shall, to the extent required by the Secretary, comply with performance standards established by the Secretary pursuant to section 106.

(5) No programs and activities supported under this section shall preclude assistance to farmworkers under any other provision of this Act.

(d) In administering programs under this section, the Secretary shall consult with appropriate State and local officials.

(e) The Secretary is directed to take appropriate action to establish administrative procedures and machinery (including personnel having particular competence in this field) for the selection, administration, monitoring, and evaluation of migrant and seasonal farmworkers' employment and training programs authorized under this Act.

(f) For the purpose of carrying out this section, the Secretary shall reserve, from funds available for this title (other than part B) for any fiscal year, an amount equal to 3.2 percent of the amount available for part A of title II of this Act for such fiscal year.

PART B—JOB CORPS

STATEMENT OF PURPOSE

SEC. 421. This part maintains a Job Corps for economically disadvantaged young men and women which shall operate exclusively as a distinct national program, sets forth standards and procedures for selecting individuals as enrollees in the Job Corps, authorizes the establishment of residential and nonresidential centers in which enrollees will participate in intensive programs of education, vocational training, work experience, counseling and other activities, and prescribes various other powers, duties, and responsibilities incident to the operation and continuing development of the Job Corps. The purpose of this part is to assist young individuals who need and can benefit from an unusually intensive program, operated in a group setting, to become more responsible, employable, and productive citizens; and to do so in a way that contributes, where feasible, to the development of national, State, and community resources, and to the development and dissemination of techniques for working with the disadvantaged that can be widely utilized by public and private institutions and agencies.

ESTABLISHMENT OF THE JOB CORPS

SEC. 422. There shall be within the Department of Labor a "Job Corps".

INDIVIDUALS ELIGIBLE FOR THE JOB CORPS

SEC. 423. To become an enrollee in the Job Corps, a young man or woman must be an eligible youth who—

(1) has attained age 14 but not attained age 22 at the time of enrollment, except that such maximum age limitation may be waived, in accordance with regulations of the Secretary, in the case of any handicapped individual;

(2) is economically disadvantaged or is a member of a family which is economically disadvantaged, and who requires additional education, training, or intensive counseling and related assistance in order to secure and hold meaningful employment, participate successfully in regular school work, qualify for other suitable training programs, or satisfy Armed Forces requirements;

(3) is currently living in an environment so characterized by cultural deprivation, a disruptive homelife, or other disorienting conditions as to substantially impair prospects for successful participation in other programs providing needed training, education, or assistance;

(4) is determined, after careful screening as provided for in sections 424 and 425 to have the present capabilities and aspirations needed to complete and secure the full benefit of the Job Corps and to be free of medical and behavioral problems so serious that the individual could not adjust to the standards of conduct, discipline, work, and training which the Job Corps involves; and

(5) meets such other standards for enrollment as the Secretary may prescribe and agrees to comply with all applicable Job Corps rules and regulations.

SCREENING AND SELECTION OF APPLICANTS: GENERAL PROVISIONS

SEC. 424. (a) The Secretary shall prescribe specific standards and procedures for the screening and selection of applicants for the Job Corps. To the extent practicable, these rules shall be implemented through arrangements with agencies and organizations such as community action agencies, public employment offices, entities administering programs under title II of this Act, professional groups, labor organizations, and agencies and individuals having contact with youth over substantial periods of time and able to offer reliable information as to their needs and problems. The rules shall provide for necessary consultation with other individuals and organizations, including court, probation, parole, law enforcement, education, welfare, and medical authorities and advisers. The rules shall also provide for the interviewing of each applicant for the purpose of—

(1) determining whether the applicant's educational and vocational needs can best be met through the Job Corps or an alternative program in the applicant's home community;

(2) obtaining from the applicant pertinent data relating to background, needs, and interests for determining eligibility and potential assignment; and

(3) giving the applicant a full understanding of the Job Corps and what will be expected of an enerollee in the event of acceptance.

(b) The Secretary is authorized to make payments to individuals and organizations for the cost of the recruitment, screening, and selection of candidates, as provided for in this part. The Secretary shall make no payments to any individual or organization solely as compensation for referring the names of candidates for Job Corps.

(c) The Secretary shall assure that Job Corps enrollees include an appropriate number of candidates selected from rural areas, taking into account the proportions of eligible youth who reside in rural areas and the need to provide residential facilities for such youth.

SCREENING AND SELECTION: SPECIAL LIMITATION

SEC. 425. (a) No individual shall be selected as an enrollee unless there is reasonable expectation that the individual can participate successfully in group situations and activities, is not likely to engage in behavior that would prevent other enrollees from receiving the benefit of the program or be incompatible with the maintenance of sound discipline and satisfactory relationships between the center to which the individual might be assigned and surrounding communities, and unless the individual manifests a basic understanding of both the rules to which the individual will be subject and of the consequences of failure to observe those rules.

(b) An individual on probation or parole may be selected only if release from the supervision of the probation or parole officials is satisfactory to those officials and the Secretary and does not violate applicable laws or regulations. No individual shall be denied a position in the Job Corps solely on the basis of that individual's contact with the criminal justice system.

ENROLLMENT AND ASSIGNMENT

SEC. 426. (a) No individual may be enrolled in the Job Corps for more than two years, except in any case in which completion of an advanced career program under section 428 would require an individual to participate in excess of two years, or except as the Secretary may authorize in special cases.

(b) Enrollment in the Job Corps shall not relieve any individual of obligations under the Military Selective Service Act (50 U.S.C. App. 451 et seq.).

(c) After the Secretary has determined that an enrollee is to be assigned to a Job Corps center, the enrollee shall be assigned to the center which is closest to the enrollee's home, except that the Secretary may waive this requirement for good cause, including to ensure an equitable opportunity for youth from various sections of the Nation to participate in the program, to prevent undue delays in assignment, to adequately meet the educational or other needs of an enrollee, and for efficiency and economy in the operation of the program.

JOB CORPS CENTERS

SEC. 427. (a) (1) The Secretary may make agreements with Federal, State, or local agencies, including a State board or agency designated pursuant to section 104(a)(1) of the Vocational Education Act of 1963 which operates or wishes to develop area vocational education school facilities or residential vocational schools (or both) as authorized by such Act, or private organizations for the establishment and operation of Job Corps centers. Job Corps centers may, subject to paragraph (2), be residential or nonresidential in character, or both, and shall be designed and operated so as to provide enrollees, in a well-supervised settting, with education, vocational training, work experience (either in direct program activities or through arrangements with employers), counseling, and other services appropriate to their needs. The centers shall include Civilian Conservation Centers, located primarily in rural areas, which shall provide, in addition to other training and assistance, programs of work experience to conserve, develop, or manage public natural resources or public recreational areas or to develop community projects in the public interest. The centers shall also include training centers located in either urban or rural areas which shall provide activities including training and other services for specific types of skilled or semiskilled employment.

(2) In any year, not more than 10 percent of the individuals enrolled in the Job Corps may be nonresidential participants.

(b) To the extent feasible, Job Corps centers shall offer education and vocational training opportunities, together with supportive services, on a nonresidential basis to participants in other programs under this Act. Such opportunities may be offered on a reimbursable basis or through such other arrangements as the Secretary may specify.

PROGRAM ACTIVITIES

SEC. 428. (a) Each Job Corps center shall provide enrollees with an intensive, well-organized, and fully supervised program of education, vocational training, work experience, planned vocational and recreational activities, physical rehabilitation and development, and counseling. To the fullest extent feasible, the required program shall include activities to assist enrollees in choosing realistic career goals, coping with problems they may encounter in home communities, or in adjusting to new communities, and planning and managing their daily affairs in a manner that will best contribute to long-term upward mobility. Center programs shall include required participation in center maintenance work to assist enrollees in increasing their sense of contribution, responsibility, and discipline.

(b) The Secretary may arrange for enrollee education and vocational training through local public or private educational agencies, vocational educational institutions, or technical institutes, whenever such institutions provide training substantially equivalent in cost and quality to that which the Secretary could provide through other means.

(c) To the extent feasible, arrangements for education, both at the center and at other locations, shall provide opportunities for quali-

fied enrollees to obtain the equivalent of a certificate of graduation from high school. The Secretary, with the concurrence of the Secretary of Education, shall develop certificates to be issued to each enrollee who satisfactorily completes service in the Job Corps and which will reflect the enrollee's level of educational attainment.

(d) (1) The Secretary may arrange for programs of advanced career training for selected Corps enrollees in which they may continue to participate for a period not to exceed one year in addition to the period of participation to which Corps enrollees would otherwise be limited.

(2) Advanced career training may be provided for in postsecondary institutions for Corps enrollees who have attained a high school diploma or its equivalent, have demonstrated commitment and capacity in their previous Job Corps participation, and have an identified occupational goal.

(3) The Secretary may contract with private for-profit businesses and labor unions to provide intensive training in company-sponsored training programs, combined with internships in work settings.

(4) During the period of participation in advanced career training programs, Corps enrollees shall be eligible for full Job Corps benefits or a monthly stipend equal to the average value of residential support, food, allowances, and other benefits in residential Job Corps centers, except that the total amount for which an enrollee shall be eligible shall be reduced by the amount of any scholarship or other educational grant assistance received by such enrollee.

(5) After an initial period of time, determined to be reasonable by the Secretary, any Job Corps center seeking to enroll new Corps enrollees in any advanced career training program shall demonstrate that such program has achieved a reasonable rate of completion and placement in training-related jobs before such new enrollments may occur.

ALLOWANCES AND SUPPORT

SEC. 429. (a) The Secretary shall provide enrollees with such personal, travel, and leave allowances, and such quarters, subsistence, transportation, equipment, clothing, recreational services, and other expenses as he may deem necessary or appropriate to their needs. For the fiscal year ending September 30, 1983, personal allowances shall be established at a rate not to exceed $65 per month during the first six months of an enrollee's participation in the program and not to exceed $110 per month thereafter, except that allowances in excess of $65 per month, but not exceeding $110 per month, may be provided from the beginning of an enrollee's participation if it is expected to be of less than six months' duration and the Secretary is authorized to pay personal allowances in excess of the rates specified in this subsection in unusual circumstances as determined by him. Such allowances shall be graduated up to the maximum so as to encourage continued participation in the program, achievement and the best use by the enrollee of the funds so provided and shall be subject to reduction in appropriate cases as a disciplinary measure. To the degree reasonable, enrollees shall be required to meet or contribute to costs associated with their individual comfort and enjoyment from their personal allowances.

(b) The Secretary shall prescribe rules governing the accrual of leave by enrollees. Except in the case of emergency, he shall in no event

assume transportation costs connected with leave of any enrollee who has not completed at least six months' service in the Job Corps.

(c) The Secretary may provide each former enrollee upon termination, a readjustment allowance at a rate not to exceed, for the fiscal year ending September 30, 1983, $110 for each month of satisfactory participation in the Job Corps. No enrollee shall be entitled to a readjustment allowance unless he has remained in the program at least 90 days, except in unusual circumstances as determined by the Secretary. The Secretary may, from time to time, advance to or on behalf of an enrollee such portions of his readjustment allowances as the Secretary deems necessary to meet extraordinary financial obligations incurred by that enrollee. The Secretary is authorized, pursuant to rules or regulations, to reduce the amount of an enrollee's readjustment allowances as a penalty for misconduct during participation in the Job Corps. In the event of an enrollee's death during his period of service, the amount of any unpaid readjustment allowance shall be paid in accordance with the provisions of section 5582 of title 5, United States Code.

(d) Such portion of the readjustment allowance as prescribed by the Secretary may be paid monthly during the period of service of the enrollee directly to a spouse or child of an enrollee, or to any other relative who draws substantial support from the enrollee, and any amount so paid shall be supplemented by the payment of an equal amount by the Secretary.

STANDARDS OF CONDUCT

SEC. 430. (a) Within Job Corps centers standards of conduct shall be provided and stringently enforced. If violations are committed by enrollees, dismissal from the Corp or transfers to other locations shall be made if it is determined that their retention in the Corps, or in the particular center, will jeopardize the enforcement of such standards or diminish the opportunities of other enrollees.

(b) To promote the proper moral and disciplinary conditions in the Job Corps, the directors of Job Corps centers shall take appropriate disciplinary measures against enrollees, including dismissal from the Job Corps, subject to expeditious appeal to the Secretary.

COMMUNITY PARTICIPATION

SEC. 431. The Secretary shall encourage and cooperate in activities to establish a mutually beneficial relationship between Job Corps centers and nearby communities. These activities shall include the establishment of community advisory councils to provide a mechanism for joint discussion of common problems and for planning programs of mutual interest. Youth shall be represented on the advisory council and separate youth councils may be established composed of enrollees and young people from the communities. The Secretary shall assure that each center is operated with a view to achieving, so far as possible, objectives which shall include—

(1) giving community officials appropriate advance notice of changes in center rules, procedures, or activities that may affect or be of interest to the community;

(2) affording the community a meaningful voice in center affairs of direct concern to it, including policies governing the issuance and terms of passes to enrollees;

(3) providing center officials with full and rapid access to relevant community groups and agencies, including law enforcement agencies and agencies which work with young people in the community;

(4) encouraging the fullest practicable participation of enrollees in programs for community improvement or betterment, with appropriate advance consultation with business, labor, professional, and other interested community groups;

(5) arranging recreational, athletic, or similar events in which enrollees and local residents may participate together;

(6) providing community residents with opportunities to work with enrollees directly as part-time instructors, tutors, or advisers, either in the center or in the community;

(7) developing, where feasible, job or career opportunities for enrollees in the community; and

(8) promoting interchanges of information and techniques among, and cooperative projects involving, the center and community schools and libraries, educational institutions, agencies serving young people and recipients of funds under this Act.

COUNSELING AND JOB PLACEMENT

SEC. 432. (a) The Secretary shall counsel and test each enrollee at regular intervals to measure progress in educational and vocational programs.

(b) The Secretary shall counsel and test enrollees prior to their scheduled terminations to determine their capabilities and shall make every effort to place them in jobs in the vocation for which they are trained or to assist them in attaining further training or education. In placing enrollees in jobs, the Secretary shall utilize the public employment service system to the fullest extent possible.

(c) The Secretary shall determine the status and progress of enrollees scheduled for termination and make every effort to assure that their needs for further education, training, and counseling are met.

(d) The Secretary shall arrange for the readjustment allowance to be paid to former enrollees (who have not already found employment) at the State employment service office nearest the home of any such former enrollee who is returning home, or at the nearest such office where the former enrollee has indicated an intent to reside. If the Secretary uses any other public agency or private organization in lieu of the public employment service system, the Secretary shall arrange for that organization or agency to pay the readjustment allowance.

EXPERIMENTAL AND DEVELOPMENTAL PROJECTS AND COORDINATION WITH OTHER PROGRAMS

SEC. 433. (a)(1) The Secretary is authorized to undertake experimental, research, or demonstration projects to develop or test ways of better using facilities, encouraging a more rapid adjustment of enrollees to community life that will permit a reduction in their period

of enrollment, reducing transportation and support costs, or otherwise promoting greater efficiency and effectiveness in the program. These projects shall include one or more projects providing youth with education, training, and other supportive services on a combined residential and nonresidential basis

(2) The Secretary is authorized to undertake one or more pilot projects designed to determine the value of Job Corps participation for young adults aged 22 to 24, inclusive.

(3) The Secretary is authorized to undertake one or more pilot projects designed to involve youth who have a history of serious and violent behavior against persons or property, repetitive delinquent acts, narcotics addiction, or other behavioral aberrations.

(4) Projects under this subsection shall be developed after appropriate consultation with other Federal or State agencies conducting similar or related programs or projects and with the administrative entity in the communities where the projects will be carried out. They may be undertaken jointly with other Federal or federally assisted programs, and funds otherwise available for activities under those programs shall, with the consent of the head of any agency concerned, be available for projects under this section to the extent they include the same or substantially similar activities. The Secretary is authorized to waive any provision of this part which the Secretary finds would prevent the carrying out of elements of projects under this subsection essential to a determination of their feasibility and usefulness. The Secretary shall, in the annual report of the Secretary, report to the Congress concerning the actions taken under this section, including a full description of progress made in connection with combined residential and nonresidential projects.

(b) In order to determine whether upgraded vocational education schools could eliminate or substantially reduce the school dropout problem, and to demonstrate how communities could make maximum use of existing educational and training facilities, the Secretary, in cooperation with the Secretary of Education, is authorized to enter into one or more agreements with State educational agencies to pay the cost of establishing and operating model community vocational education schools and skill centers.

(c) (1) The Secretary, through the Job Corps and activities authorized under sections 452 and 455, shall develop and implement activities designed to disseminate information gained from Job Corps program experience which may be of use in the innovation and improvement of related programs. To carry out this purpose, the Secretary may enter into appropriate arrangements with any Federal or State agency.

(2) The Secretary is authorized to develop Job Corps programs to test at various centers the efficacy of selected education or training activities authorized under this or any other Act and to appropriately disseminate the results of such tests. To carry out this purpose, the Secretary may enter into appropriate arrangements with any Federal or State agency.

(d) The Secretary is authorized to enter into appropriate arrangements with the Secretary of Defense for the development of pilot projects at Job Corps centers to prepare youth to qualify for military service. In the event that the Secretary of Labor and the Secretary

of Defense agree that such pilot project should be expanded into permanent programs, the Secretary may establish such permanent programs within the Job Corps, if the Secretary of Defense agrees (1) to provide 50 percent of the costs attributable to such permanent programs, and (2) to reimburse the Secretary of Labor for an additional amount if more than 50 percent of the enrollees in such programs become members of the Armed Forces. Such additional amount shall be equal to a percentage of such costs which is the percentage by which more than 50 percent of such enrollees become such members. In addition to the provision of funds, such reimbursement may include the provision of equipment, materials, transportation, technical assistance, or other assistance, as specified by the Secretary.

(e) In order to determine whether community participation as required under section 431 can be improved through the closer involvement of community-based organizations, the Secretary is authorized to undertake one or more pilot projects utilizing community-based organizations of demonstrated effectiveness for Job Corps center operation. For purposes of such pilot projects, the term "community-based organizations" may include nonprofit educational foundations organized on a State or local basis.

ADVISORY BOARDS AND COMMITTEES

SEC. 434. The Secretary is authorized to make use of advisory committees in connection with the operation of the Job Corps, and the operation of Job Corps centers, whenever the Secretary determines that the availability of outside advice and counsel on a regular basis would be of substantial benefit in identifying and overcoming problems, in planning program or center development, or in strengthening relationships between the Job Corps and agencies, institutions, or groups engaged in related activities.

PARTICIPATION OF THE STATES

SEC. 435. (a) The Secretary shall take action to facilitate the effective participation of States in the Job Corps programs, including consultation with appropriate State agencies on matters pertaining to the enforcement of applicable State laws, standards of enrollee conduct and discipline, development of meaningful work experience and other activities for enrollees, and coordination with State-operated programs.

(b) The Secretary is authorized to enter into agreements with States to assist in the operating or administration of State-operated programs which carry out the purpose of this part. The Secretary is authorized, pursuant to regulations, to pay part or all of the costs of such programs to the extent such costs are attributable to carrying out the purpose of this part.

(c) No Job Corps center or other similar facility designed to carry out the purpose of this part shall be established within a State unless a notice setting forth such proposed establishment has been submitted to the Governor, and the establishment has not been disapproved by the Governor within thirty days of such submission.

14-064 O - 83 - 5

(d) All property which would otherwise be under exclusive Federal legislative jurisdiction shall be under concurrent jurisdiction with the appropriate State and locality with respect to criminal law enforcement as long as a Job Corps center is operated on such property.

APPLICATION OF PROVISIONS OF FEDERAL LAW

SEC. 436. (a) Except as otherwise provided in this subsection and in section 8143(a) of title 5, United States Code, enrollees in the Job Corps shall not be considered Federal employees and shall not be subject to the provisions of law relating to Federal employment, including those regarding hours of work, rates of compensation, leave, unemployment compensation, and Federal employee benefits:

(1) For purposes of the Internal Revenue Code of 1954 (26 U.S.C. 1 et seq.) and title II of the Social Security Act (42 U.S.C. 401 et seq.) enrollees shall be deemed employees of the United States and any service performed by an individual as an enrollee shall be deemed to be performed in the employ of the United States.

(2) For purposes of subchapter I of chapter 81 of title 5, United States Code (relating to compensation to Federal employees for work injuries), enrollees shall be deemed civil employees of the United States within the meaning of the term "employee" as defined in section 8101 of title 5, United States Code, and the provisions of that subchapter shall apply except—

(A) the term "performance of duty" shall not include any act of an enrollee while absent from the assigned post of duty of such enrollee, except while participating in an activity (including an activity while on pass or during travel to or from such post or duty) authorized by or under the direction and supervision of the Job Corps;

(B) in computing compensation benefits for disability or death, the monthly pay of an enrollee shall be deemed that received under the entrance salary for a grade GS–2 employee, and sections 813 (a) and (b) of title 5, United States Code, shall aply to enrollees; and

(C) compensation for disability shall not begin to accrue until the day following the date on which the injured enrollee is terminated.

(3) For purposes of the Federal tort claims provisions in title 28, United States Code, enrollees shall be considered employees of the Government.

(b) Whenever the Secretary finds a claim for damages to persons or property resulting from the operation of the Job Corps to be a proper charge against the United States, and it is not cognizable under section 2672 of title 28, United States Code, the Secretary is authorized to adjust and settle it in an amount not exceeding $1,500.

(c) Personnel of the uniformed services who are detailed or assigned to duty in the performance of agreements made by the Secretary for the support of the Corps shall not be counted in computing strength

under any law limiting the strength of such services or in computing the percentage authorized by law for any grade in such services.

SPECIAL PROVISIONS

SEC. 437. (a) The Secretary shall immediately take steps to achieve an enrollment of 50 percent women in the Job Corps consistent with (1) efficiency and economy in the operation of the program, (2) sound administrative practice, and (3) the socioeconomic, educational, and training needs of the population to be served.

(b) The Secretary shall assure that all studies, evaluations, proposals, and data produced or developed with Federal funds in the course of the Job Corps program shall become the property of the United States.

(c) Transactions conducted by private for-profit contractors for Job Corps centers which they are operating on behalf of the Secretary shall not be considered as generating gross receipts.

GENERAL PROVISIONS

SEC. 438. The Secretary is authorized to—

(1) disseminate, with regard to the provisions of section 3204 of title 39, United States Code, data and information in such forms as the Secretary shall deem appropriate, to public agencies, private organizations, and the general public;

(2) collect or compromise all obligations to or held by the Secretary and all legal or equitable rights accruing to the Secretary in connection with the payment of obligations until such time as such obligations may be referred to the Attorney General for suit or collection; and

(3) expend funds made available for purposes of this part—

(A) for printing and binding, in accordance with applicable law and regulation; and

(B) without regard to any other law or regulation, for rent of buildings and space in buildings and for repair, alteration, and improvement of buildings and space in buildings rented by the Secretary, except that the Secretary shall not utilize the authority contained in this subparagraph—

(i) except when necessary to obtain an item, service, or facility, which is required in the proper administration of this part, and which otherwise could not be obtained, or could not be obtained in the quantity or quality needed, or at the time, in the form or under the conditions in which it is needed; and

(ii) prior to having given written notification to the Administrator of General Services, (if the exercise of such authority would affect an activity which otherwise would be under the jurisdiction of the General Services Administration) of the Secretary's intention to exercise such authority, the item, service, or facility with respect to which such authority is proposed to be exercised, and the reasons and justifications for the exercise of such authority.

DONATIONS

SEC. 439. The Secretary is authorized to accept on behalf of the Job Corps or individual Job Corps centers charitable donations of cash or other assistance, including but not limited to, equipment and materials, if such donations are available for appropriate use for the purposes set forth in this part.

PART C—VETERANS' EMPLOYMENT PROGRAMS

PROGRAMS AUTHORIZED

SEC. 441. (a)(1) The Secretary shall conduct, directly or through grant or contract, programs to meet the employment and training needs of service-connected disabled veterans, veterans of the Vietnam era, and veterans who are recently separated from military service.

(2) Programs supported under this part may be conducted through public agencies and private nonprofit organizations, including recipients under other provisions of this Act that the Secretary determines have an understanding of the unemployment problems of such veterans, familiarity with the area to be served, and the capability to administer effectively a program of employment and training assistance for such veterans.

(3) Programs supported under this part shall include, but not be limited to—

(A) activities to enhance services provided veterans by other providers of employment and training services funded by Federal, State, or local government;

(B) activities to provide employment and training services to such veterans not adequately provided by other public employment and training service providers; and

(C) outreach and public information activities to develop and promote maximum job and job training opportunities for such veterans and to inform such veterans about employment, job-training, on-the-job training and educational opportunities under this Act, under title 38, United States Code, and under other provisions of law.

(b)(1) The Secretary shall administer programs supported under this part through the Assistant Secretary for Veterans' Employment.

(2) In carrying out responsibilities under this part, the Assistant Secretary for Veterans' Employment shall—

(A) be responsible for the awarding of grants and the distribution of funds under this part and for the establishment of appropriate fiscal controls, accountability, and program-performance standards for grant recipients under this part; and

(B) consult with the Administrator of Veterans' Affairs and take steps to ensure that programs supported under this part are coordinated, to the maximum extent feasible, with related programs and activities conducted under title 38, United States Code, including programs and activities conducted under subchapter IV of chapter 3 of such title, chapters 31 and 34 of such title, and sections 612A, 620A, 1787, and 2003A of such title.

PART D—NATIONAL ACTIVITIES

MULTISTATE PROGRAMS

SEC. 451. (a) Funds available to carry out this section shall be used for job training programs or services (as authorized under any other provision of this Act) which are most appropriately administered at the national level and which are operated in more than one State.

(b) Programs which are most appropriately administered at the national level include programs such as—

(1) programs addressed to industry-wide skill shortages;

(2) programs designed to train workers for employment opportunities located in another State;

(3) regional or nationwide efforts to develop a labor force with skills that promote the use of renewable energy technologies, energy conservation, and the weatherization of homes occupied by low-income families;

(4) programs designed to develop information networks among local programs with similar objectives under this Act; and

(5) programs which require technical expertise available at the national level and which serve specialized needs of particular client groups, including offenders, individuals of limited English language proficiency, handicapped individuals, women, single parents, displaced homemakers, youth, older workers, individuals who lack education credentials, public assistance recipients, and other individuals whom the Secretary determines require special assistance.

RESEARCH AND DEMONSTRATION

SEC. 452. (a) To assist the Nation in expanding work opportunities and assuring access to those opportunities for all who desire it, the Secretary shall establish a comprehensive program of employment and training research, utilizing the methods, techniques, and knowledge of the behavioral and social sciences and such other methods, techniques, and knowledge as will aid in the solution of the Nation's employment and training problems. The program under this section may include studies concerning the development or improvement of Federal, State, local, and privately supported employment and training programs; labor market processes and outcomes; policies and programs to reduce unemployment and the relationships thereof with price stability and other national goals; productivity of labor; improved means of forecasting and using forecasts of labor supply and demand at the national and subnational levels; methods of improving the wages and employment opportunities of low-skilled and disadvantaged workers; measuring and developing policies to eliminate worker shortages; and easing the transition from school to work, from transfer payment receipt to self-sufficiency, from one job to another, and from work to retirement.

(b) The Secretary shall establish a program of experimental, developmental, and demonstration projects, through grants or contracts, for the purpose of improving techniques and demonstrating the effectiveness of specialized methods in meeting employment and training problems. Research activities may include studies, experiments, demonstrations, and pilot projects in such areas as easing the transi-

tion from school to work, assessing the changing demographics of the American work-force and addressing the short-term and long-term impact of the changes, increasing employment of skilled workers critical to defense readiness, and, subject to the last sentence of this subsection, projects developed in conjunction with the Secretary of Defense to meet civilian manpower needs on military installations and in the private sector, and eliminating artificial barriers to employment. The Secretary may pay not to exceed 60 percent of the costs of projects developed in conjunction with the Secretary of Defense described in the preceding sentence, and the contributions of the Department of Defense may be in cash or in kind, fairly evaluated, including plant, equipment, or services.

PILOT PROJECTS

SEC. 453. (a) From funds made available under this part, the Secretary may provide financial assistance for pilot projects which meet the employment-related needs of persons including the handicapped and displaced homemakers who face particular disadvantages in specific and general labor markets or occupations and other persons whom the Seretary determines require special assistance, and projects designed to address skill shortages that affect other critical national objectives, including national security.

(b) Each pilot project assisted under this section shall be designed to assist in eliminating artificial and other employment barriers faced by such persons.

(c) No project under this section shall be financially assisted for more than three years under this Act.

(d) In selecting recipients under this section, the Secretary shall give special consideration to applications submitted by community-based organizations of demonstrated effectiveness, as well as to labor unions, and trade associations and their affiliates that address nationwide concerns through programs operating in more than one State.

EVALUATION

SEC. 454. (a) The Secretary shall provide for the continuing evaluation of all programs, activities, and research and demonstration projects conducted pursuant to this Act, including their cost-effectiveness in achieving the purposes of this Act, their impact on communities and participants, their implication for related programs, the extent to which they meet the needs of persons by age, sex, race, and national origin, and the adequacy of the mechanism for the delivery of services.

(b) The Secretary shall evaluate the effectiveness of programs authorized under this Act and part C of title IV of the Social Security Act with respect to the statutory goals, the performance standards established by the Secretary, and of increases in employment and earnings for participants, reduced income support costs, increased tax revenues, duration in training and employment situations, information on the post-enrollment labor market experience of program participants for at least a year following their termination from such programs, and comparable information on other employees or trainees of participating employers.

TRAINING AND TECHNICAL ASSISTANCE

SEC. 455. (a) The Secretary, in consultation with appropriate officials, shall provide directly or through grants, contracts, or other arrangements, appropriate preservice and inservice training for specialized, supportive, supervisory, or other personnel, including job skills teachers, and appropriate technical assistance (including technical assistance to training programs for housing for migrant and seasonal farmworkers) with respect to programs under this Act including the development and attainment of performance goals. Such activities may include the utilization of training and technical assistance capabilities which exist at the State and service delivery area level.

(b) The Secretary shall establish a national clearinghouse to disseminate materials and information gained from exemplary program experience which may be of use in the innovation or improvement of other programs conducted pursuant to this Act.

PART E—LABOR MARKET INFORMATION

LABOR MARKET INFORMATION; AVAILABILITY OF FUNDS

SEC. 461. (a) The Secretary shall set aside, out of sums available to the Department for any fiscal year including sums available for this title, such sums as may be necessary to maintain a comprehensive system of labor market information on a national, regional, State, local, or other appropriate basis, which shall be made publicly available in a timely fashion.

(b) Funds available for purposes of this part shall also be available for purposes of section 125 (relating to State labor market information).

(c) Notwithstanding any other provision of law, funds available to other Federal agencies for carrying out chapter 35 of title 44, United States Code, the Vocational Education Act of 1963, and the Act of June 6, 1933 (popularly known as the Wagner-Peyser Act), may be made available by the head of each such agency to assist in carrying out the provisions of this part.

COOPERATIVE LABOR MARKET INFORMATION PROGRAM

SEC. 462. (a) The Secretary shall develop and maintain for the Nation, State, and local areas, current employment data by occupation and industry, based on the occupational employment statistics program, including selected sample surveys, and projections by the Bureau of Labor Statistics of employment and openings by occupation.

(b) The Secretary shall maintain descriptions of job duties, training and education requirements, working conditions, and characteristics of occupations.

(c) In carrying out the provisions of this section, the Secretary shall assure that—

(1) departmental data collecting and processing systems are consolidated to eliminate overlap and duplication;

(2) the criteria of chapter 35 of title 44, United States Code, are met; and

(3) standards of statistical reliability and national standardized definitions of employment, unemployment, and industrial and occupational definitions are used.

(d)(1) The Secretary is authorized to develop data for an annual statistical measure of labor market related economic hardship in the Nation. Among the factors to be considered in developing such a measure are unemployment, labor force participation, involuntary part-time employment, and full-time employment at wages less than the poverty level.

(2) The Secretary is authorized to develop and maintain, on national, State, local, and other appropriate bases, household budget data at different levels of living, including a level of adequacy, to reflect the differences of household living costs in regions and localities, both urban and rural.

(3) The Secretary shall publish, at least annually, a report relating labor force status to earnings and income.

(e) The Secretary shall develop and maintain statistical data relating to permanent lay-offs and plant closings. The Secretary shall publish a report based upon such data, as soon as practicable, after the end of each calendar year. Among the data to be included are—

(1) the number of such closings;
(2) the number of workers displaced;
(3) the location of the affected facilities; and
(4) the types of industries involved.

SPECIAL FEDERAL RESPONSIBILITIES

SEC. 463. (a) The Secretary, in cooperation with the Secretary of Commerce, the Secretary of Defense, the Secretary of the Treasury, the Secretary of Education, and the Director of the Office of Management and Budget, through the National Occupational Information Coordinating Committee established under section 161(b) of the Vocational Education Act of 1963, shall—

(1) review the need for and the application of all operating national data collection and processing systems related to labor market information in order to identify gaps, overlap, and duplications, and integrate at the national level currently available data sources in order to improve the management of information systems;

(2) maintain, assure timely review, and implement national standardized definitions with respect to terms, geographic areas, timing of collection, and coding measures related to labor market information, to the maximum extent feasible; and

(3) provide technical assistance to the States in the development, maintenance, and utilization of labor market/occupational supply and demand information systems and projections of supply and demand as described in section 125, with special emphasis on assistance in the utilization of cost-efficient automated systems and improving access of individuals to career opportunities information in local and State labor markets.

(b) The Secretary, in cooperation with the Secretary of Defense, shall assure the development of an integrated occupational supply

and demand information system to be used by States and, in particular, in secondary and postsecondary educational institutions in order to assure young persons adequate information on career opportunities in the Armed Forces.

(c) The Secretary and the Director of the Office of Management and Budget shall assure that, from the funds reserved for this part, sufficient funds are available to provide staff at the Federal level to assure the coordination functions described in this section.

NATIONAL OCCUPATIONAL INFORMATION COORDINATING COMMITTEE

SEC. 464. (a)(1) Of the amounts available for this part for each fiscal year, not more than $5,000,000 is authorized to be reserved for the National Occupational Information Coordinating Committee (established pursuant to section 161(b) of the Vocational Education Act of 1963).

(2) In addition to the members required by such Act, the Committee shall include the Assistant Secretary of Commerce for Economic Development and the Assistant Secretary of Defense for Manpower, Reserve Affairs, and Logistics.

(3) Not less than 75 percent of the funds transferred by the Secretary to the National Occupational Information Coordinating Committee shall be used to support State occupational information coordinating committees and other organizational units designated under section 125 for carrying out State labor market information programs.

(b) In addition to its responsibilities under the Vocational Education Act of 1963, the National Occupational Information Coordinating Committee shall—

(1) carry out the provisions of section 463;

(2) give special attention to the labor market information needs of youth and adults, including activities such as (A) assisting and encouraging States to adopt methods of translating national occupational outlook information into State and local terms; (B) assisting and encouraging the development of State occupational information systems, including career information delivery systems and the provision of technical assistance for programs of on-line computer systems and other facilities to provide career information at sites such as local schools, public employment service offices, and job training programs authorized under this Act; (C) in cooperation with educational agencies and institutions, encouraging programs providing career information, counseling, and employment services for postsecondary youth; and (D) in cooperation with State and local correctional agencies, encouraging programs of counseling and employment services for youth and adults in correctional institutions;

(3) provide training and technical assistance, and continuing support to State occupational information coordinating committees, in the development, maintenance, and use of occupational supply and demand information systems, with special emphasis on the use of cost efficient automated systems for delivering occupational information to planners and administrators of education and training programs and on improving the access of such planners and administrators to occupational information systems;

(4) publish at least annually a report on the status of occupational information capabilities at the State and national levels, which may include recommendations for improvement of occupational information production and dissemination capabilities;

(5) conduct research and demonstration projects designed to improve any aspect of occupational and career information systems;

(6) provide technical assistance for programs designed to encourage public and private employers to list all available job opportunities with occupational information and career counseling programs conducted by administrative entities and with local public employment service offices and to encourage cooperation and contact among such employers and such administrative entities and public employment service offices; and

(7) provide assistance to units of general local government and private industry councils to familiarize them with labor market information resources available to meet their needs.

(c) All funds available to the National Occupational Information Coordinating Committee under this Act, under section 161 of the Vocational Education Act of 1963, and under section 12 of the Career Education Act may be used by the Committee to carry out any of its functions and responsibilities authorized by law.

JOB BANK PROGRAM

SEC. 465. The Secretary is authorized to establish and carry out a nationwide computerized job bank and matching program (including the listing of all suitable employment openings with local offices of the State employment service agencies by Federal contractors and subcontractors and providing for the affirmative action as required by section 2012(a) of title 38, United States Code, on a regional, State, and local basis, using electronic data processing and telecommunications systems to the maximum extent possible for the purpose of identifying sources of available individuals and job vacancies, providing an expeditious means of matching the qualifications of unemployed, underemployed, and economically disadvantaged individuals with employer requirements and job opportunities, and referring and placing such individuals in jobs. An occupational information file may be developed, containing occupational projections of the numbers and types of jobs on regional, State, local, and other appropriate bases, as well as labor supply information by occupation.

PART F—NATIONAL COMMISSION FOR EMPLOYMENT POLICY

STATEMENT OF PURPOSE

SEC. 471. The purpose of this part is to establish a National Commission for Employment Policy which shall have the responsibility for examining broad issues of development, coordination, and administration of employment and training programs, and for advising the President and the Congress on national employment and training issues. For the purpose of providing funds for the Commission, the Secretary shall reserve $2,000,000 of the sums appropriated for this title for each fiscal year.

COMMISSION ESTABLISHED

SEC. 472. (a) There is established a National Commission for Employment Policy (hereinafter in this part referred to as the "Commission"). The Commission shall be composed of 15 members, appointed by the President. The members of the Commission shall be individuals who are nationally prominent and the Commission shall be broadly representative of agriculture, business, labor, commerce, education (including elementary, secondary, postsecondary, and vocational and technical education), veterans, current State and local elected officials, community-based organizations, assistance programs, and members of the general public with expertise in human resource development or employment and training policy. One of the members shall be a representative of the National Advisory Council on Vocational Education (established under section 162 of the Vocational Education Act of 1963). The membership of the Commission shall be generally representative of significant segments of the labor force, including women and minority groups.

(b) The term of office of each member of the Commission appointed by the President under subsection (a) shall be three years, except that—

(1) any such member appointed to fill a vacancy shall serve for the remainder of the term for which his predecessor was appointed, and

(2) of such members first taking office—

(A) five shall serve for terms of one year;

(B) five shall serve for terms of two years; and

(C) five shall serve for terms of three years;

as designated by the President at the time of appointment.

(c) (1) The Chairman shall be selected by the President.

(2) The Commission shall meet not fewer than three times each year at the call of the Chairman.

(3) A majority of the members of the Commission shall constitute a quorum, but a lesser number may conduct hearings. Any recommendation may be passed only by a majority of the members present. Any vacancy in the Commission shall not affect its powers but shall be filled in the same manner in which the original appointment was made.

(d) The Chairman (with the concurrence of the Commission) shall appoint a Director, who shall be chief executive officer of the Commission and shall perform such duties as are prescribed by the Chairman.

FUNCTIONS OF THE COMMISSION

SEC. 473. The Commission shall—

(1) identify the employment goals and needs of the Nation, and assess the extent to which employment and training, vocational education, institutional training, vocational rehabilitation, economic opportunity programs, public assistance policies, employment-related tax policies, labor exchange policies, and other policies and programs under this Act and related Acts represent a consistent, integrated, and coordinated approach to meeting such needs and achieving such goals;

(2) develop and make appropriate recommendations designed to meet the needs and goals described in clause (1);

(3) examine and evaluate the effectiveness of federally assisted employment and training programs (including programs assisted under this Act), with particular reference to the contributions of such programs to the achievement of objectives sought by the recommendations made under clause (2);

(4) advise the Secretary on the development of national performance standards and the parameters of variations of such standards for programs conducted pursuant to this Act;

(5) evaluate the impact of tax policies on employment and training opportunities;

(6) examine and evaluate major Federal programs which are intended to, or potentially could, contribute to achieving major objectives of existing employment and training and related legislation or the objectives set forth in the recommendations of the Commission, and particular attention shall be given to the programs which are designed, or could be designed, to develop information and knowledge about employment and training problems through research and demonstration projects or to train personnel in fields (such as occupational counseling, guidance, and placement) which are vital to the success of employment and training programs;

(7) (A) identify, after consultation with the National Advisory Council on Vocational Education, the employment and training and vocational education needs of the Nation and assess the extent to which employment and training, vocational education, rehabilitation, and other programs assisted under this and related Acts represent a consistent, integrated, and coordinated approach to meeting such needs; and

(B) comment, at least once annually, on the reports of the National Advisory Council on Vocational Education, which comments shall be included in one of the reports submitted by the National Commission pursuant to this title and in one of the reports submitted by the National Advisory Council on Vocational Education pursuant to section 162 of the Vocational Education Act of 1963;

(8) study and make recommendations on how, through policies and actions in the public and private sectors, the Nation can attain and maintain full employment, with special emphasis on the employment difficulties faced by the segments of the labor force that experience differentially high rates of unemployment;

(9) identify and assess the goals and needs of the Nation with respect to economic growth and work improvements, including conditions of employment, organizational effectiveness and efficiency, alternative working arrangements, and technological changes;

(10) evaluate the effectiveness of training provided with Federal funds in meeting emerging skill needs; and

(11) study and make recommendations on the use of advanced technology in the management and delivery of services and activities conducted under this Act.

ADMINISTRATIVE PROVISIONS

SEC. 474. (a) Subject to such rules and regulations as may be adopted by the Commission, the Chairman is authorized to—

(1) prescribe such rules and regulations as may be necessary;

(2) appoint and fix the compensation of such staff personnel as the Chairman deems necessary, and without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification and the General Schedule pay rates, appoint not to exceed five additional professional personnel;

(3) procure the services of experts and consultants in accordance with section 3109 of title 5, United States Code;

(4) accept voluntary and uncompensated services of professional personnel, consultants, and experts, notwithstanding any other provision of law;

(5) accept in the name of the United States and employ or dispose of gifts or bequests to carry out the functions of the Commission under this title;

(6) enter into contracts and make such other arrangements and modifications, as may be necessary;

(7) conduct such studies, hearings, research activities, demonstration projects, and other similar activities as the Commission deems necessary to enable the Commission to carry out its functions under this title;

(8) use the services, personnel, facilities, and information of any department, agency, and instrumentality of the executive branch of the Federal Government and the services, personnel, facilities, and information of State and local public agencies and private research agencies, with the consent of such agencies, with or without reimbursement therefor; and

(9) make advances, progress, and other payments necessary under this Act without regard to the provisions of section 3648 of the Revised Statutes (31 U.S.C. 529).

(b) Upon request made by the Chairman of the Commission, each department, agency, and instrumentality of the executive branch of the Federal Government is authorized and directed to make its services, personnel, facilities, and information (including computer-time, estimates, and statistics) available to the greatest practicable extent to the Commission in the performance of its functions under this Act.

REPORTS

SEC. 475. The Commission shall make at least annually a report of its findings and recommendations to the President and to the Congress. The Commission may make such interim reports or recommendations to the Congress, the President, the Secretary, or to the heads of other Federal departments and agencies, and in such form, as it may deem desirable. The Commission shall include in any report made under this section any minority or dissenting views submitted by any member of the Commission.

PART G—TRAINING TO FULFILL AFFIRMATIVE ACTION OBLIGATIONS

AFFIRMATIVE ACTION

SEC. 481. (a) A contractor subject to the affirmative action obligations of Executive Order 11246, as amended, issued September 24, 1965, may establish or participate in training programs pursuant to this section for individuals meeting the eligibility criteria established in sections 203(a)(1), 401, and 402, which are designed to assist such contractors in meeting the affirmative action obligations of such Executive order. To qualify under this section, such a training program shall contain—

(1) a description of the jobs in the contractor's work force or in the service delivery area, for which the contractor has determined there is a need for training;

(2) a description of the recruiting, training, or other functions that the contractor, or the organization that will be engaged to perform the training, will perform and the steps that will be taken to insure that eligible individuals will—

(A) be selected for participation in training,

(B) be trained in necessary skills, and

(C) be referred for job openings,

in accordance with the objectives of such Executive order;

(3) whenever an organization other than the contractor will perform the training, a description of the demonstrated effectiveness of the organization as a provider of employment and training services;

(4) a description of how the contractor will monitor the program to keep an accurate accounting of all trainees, including (A) whether the trainees successfully complete the training program, and (B) whether the trainees are or are not placed; and

(5) an estimation of the cost of the program and an assurance that the contractor will assume all costs of the program or the pro rata share of costs to the contractor of the program.

(b)(1)(A) If the training proposal is designed to meet the needs of the community rather than, or in addition to, the employment needs of the contractor, and has not been approved by another Federal agency, the program shall be submitted to the private industry council established under section 102 for a determination that there is a need for such training in the community.

(B) Individuals trained under any program satisfying the requirements of this section may be included by the private industry council in its performance accomplishments and the wage gains of such individuals shall be included in determining the compliance of the job training program of the private industry council with applicable standards.

(2) The Director of the Office of Federal Contract Compliance Programs, Department of Labor, shall promulgate regulations setting forth how the Office will determine, during a compliance review, the degree to which a training program will satisfy the contractor's affirmative action obligations. The training and placement of trainees with employers other than the contractor may be considered in evaluating such contractor's overall good faith efforts, but in no event may placement of trainees with employers other than the contractor be

permitted to affect that contractor's affirmative action obligations respecting its work force. The content of the training program will not be subject to review or regulation by the Office of Federal Contract Compliance Programs. If during a compliance review the Director of the Office of Federal Contract Compliance Programs determines that a training program does not comply with its regulations, the Director shall—

(A) notify the contractor of the disapproval,

(B) set forth the reasons for the disapproval, and

(C) provide a list of recommendations which, if accepted, will qualify the training program under this section.

(3) A contractor who has a training program which contains the criteria set forth in subsection (a) and which is in accordance with regulations promulgated under paragraph (2) of this subsection shall continue to meet the affirmative action obligations of Executive Order 11246, as amended, but the contractors required to maintain a written affirmative action program need only maintain an abbreviated affirmative action program, the content and length of which shall be determined by the Director of the Office of Federal Contract Compliance Programs, to satisfy the written affirmative action program portion of their obligations under Executive Order 11246, as amended. Successful performance or operation of a training program meeting the criteria set forth in subsection (a) shall create a presumption that the contractor has made a good faith effort to meet its affirmative action obligations to the degree specified by the Director under paragraph (2) of this subsection, but that presumption shall not be applicable to the satisfaction of other affirmative action obligations not directly related to the training and hiring requirements of this section, or other affirmative action obligations not affected by this section. For the purpose of the preceding sentence, "successful performance or operation" means training and placing in jobs a number of individuals which bears a reasonable relationship to the number of job openings in the contractor's facilities or in the relevant labor market area.

(c) Nothing in this section may be interpreted—

(1) to compel contractor involvement in such programs,

(2) to establish the exclusive criteria by which a contractor can be found to have fulfilled its affirmative action obligations,

(3) to provide authority for imposing any additional obligations on contractors not participating in such training activities,

(4) to permit the Office of Federal Contract Compliance Programs to intervene or interfere with the authority and responsibilities of the private industry councils,

(5) to restrict or limit the authority of the Secretary to investigate the employment practices of any Government contractor, to initiate such investigation by the Director, to determine whether any nondiscrimination contractual provisions have been violated, or to enforce Executive Order 11246, or

(6) to prohibit the Secretary or the Director, or other authorized officers of the United States, from requesting or compelling any contractor preparing and maintaining a short form affirmative action plan under subsection (b) to provide information necessary to conduct a compliance review or to provide data necessary to determine whether any violation of Executive Order 11246 has occurred.

TITLE V—MISCELLANEOUS PROVISIONS

AMENDMENTS TO THE WAGNER-PEYSER ACT

SEC. 501. [These amendments were incorporated into the Wagner-Peyser Act as it appears on page 77.]

AMENDMENTS TO PART C OF TITLE IV OF THE SOCIAL SECURITY ACT

SEC. 502. [These amendments were incorporated into part C of title IV of the Social Security Act as it appears on page 171.]

EARNINGS DISREGARD

SEC. 503. (a) Section 402(a)(8)(A) of the Social Security Act is amended—

(1) by striking out "and" at the end of clause (iii);

(2) in clause (iv), by striking out "already disregarded under the preceding provisions of this paragraph" and inserting in lieu thereof "disregarded under any other clause of this subparagraph"; and

(3) by adding at the end thereof the following new clause;

"(v) may disregard the income of any dependent child applying for or receiving aid to families with dependent children which is derived from a program carried out under the Job Training Partnership Act (as originally enacted), but only in such amounts, and for such period of time (not to exceed six months with respect to earned income) as the Secretary may provide in regulations; and".

(b) Section 402(a)(18) of such Act is amended by inserting ", other than paragraph (8)(A)(v)" after "without application of paragraph (8)".

ENFORCEMENT OF MILITARY SELECTIVE SERVICE ACT

SEC. 504. The Secretary shall insure that each individual participating in any program established under this Act, or receiving any assistance or benefit under this Act, has not violated section 3 of the Military Selective Service Act (50 U.S.C. App. 453) by not presenting and submitting to registration as required pursuant to such section. The Director of the Selective Service System shall cooperate with the Secretary in carrying out this section.

Approved October 13, 1982.

WAGNER-PEYSER ACT, AS AMENDED [1]

[The Act of June 6, 1933, as Amended]

AN ACT To provide for the establishment of a national employment system and for cooperation with the States in the promotion of such system, and for other purposes

SEC. 1. In order to promote the establishment and maintenance of a national system of public employment offices, the United States Employment Service shall be established and maintained within the Department of Labor.

SEC. 2. For purposes of this Act—

(1) the term "chief elected official or officials" has the same meaning given that term under the Job Training Partnership Act;

(2) the term "private industry council" has the same meaning given that term under the Job Training Partnership Act;

(3) the term "Secretary" means the Secretary of Labor;

(4) the term "service delivery area" has the same meaning given that term under the Job Training Partnership Act; and

(5) the term "State" means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, and the Virgin Islands.

SEC. 3. (a) The United States Employment Service shall assist in coordinating the State public employment services throughout the country and in increasing their usefulness by developing and prescribing minimum standards of efficiency, assisting them in meeting problems peculiar to their localities, promoting uniformity in their administrative and statistical procedure, furnishing and publishing information as to opportunities for employment and other information of value in the operation of the system, and maintaining a system for clearing labor between the States.

(b) It shall be the duty of the Secretary of Labor to assure that unemployment insurance and employment service offices in each State, as appropriate, upon request of a public agency administering or supervising the administration of a State plan approved under part A of title IV of the Social Security Act or of a public agency charged with any duty or responsibility under any program or activity authorized or required under part D of title IV of such Act, shall (and, notwithstanding any other provision of law, is authorized to) furnish to such agency making the request, from any data contained in the files of any such office, information with respect to any individual specified in the request as to (1) whether such individual is receiving, has received, or has made application for, unemployment compensation, and the amount of any such compensation being received by such individual, (2) the current (or most recent) home address of such individual, and (3) whether such individual has refused an offer of employment and, if so, a description of the employment so offered and the terms, conditions, and rate of pay therefor.

[1] As amended through Public Law 96-404.

14-064 O - 83 - 6

SEC. 4. In order to obtain the benefits of appropriations apportioned under section 5, a State shall, through its legislature, accept the provisions of this Act and designate or authorize the creation of a State agency vested with all powers necessary to cooperate with the United States Employment Service under this Act.

SEC. 5. (a) There is authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, such amounts from time to time as the Congress may deem necessary to carry out the purposes of this Act.

(b) The Secretary shall from time to time certify to the Secretary of the Treasury for payment to each State which—

(1) except in the case of Guam, has an unemployment compensation law approved by the Secretary under the Federal Unemployment Tax Act and is found to be in compliance with section 303 of the Social Security Act, as amended,

(2) is found to have coordinated the public employment services with the provision of unemployment insurance claimant services, and

(3) is found to be in compliance with this Act,

such amounts as the Secretary determines to be necessary for allotment in accordance with section 6.

(c)(1) Beginning with fiscal year 1985 and thereafter appropriations for any fiscal year for programs and activities assisted or conducted under this Act shall be available for obligation only on the basis of a program year. The program year shall begin on July 1 in the fiscal year for which the appropriation is made.

(2) Funds obligated for any program year may be expended by the State during that program year and the two succeeding program years and no amount shall be deobligated on account of a rate of expenditure which is consistent with the program plan.

(3)(A) Appropriations for fiscal year 1984 shall be available both to fund activities for the period between October 1, 1983, and July 1, 1984, and for the program year beginning July 1, 1984.

(B) There are authorized to be appropriated such additional sums as may be necessary to carry out the provisions of this paragraph for the transition to program year funding.

SEC. 6. (a) From the amounts appropriated pursuant to section 5 for each fiscal year, the Secretary shall first allot to Guam and the Virgin Islands an amount which, in relation to the total amount available for the fiscal year, is equal to the allotment percentage which each received of amounts available under this Act in fiscal year 1983.

(b)(1) Subject to paragraphs (2), (3), and (4) of this subsection, the Secretary shall allot the remainder of the sums appropriated and certified pursuant to section 5 of this Act for each fiscal year among the States as follows:

(A) two-thirds of such sums shall be allotted on the basis of the relative number of individuals in the civilian labor force in each State as compared to the total number of such individuals in all States; and

(B) one-third of such sums shall be allotted on the basis of the relative number of unemployed individuals in each State as compared to the total number of such individuals in all States.

For purposes of this paragraph, the number of individuals in the civilian labor force and the number of unemployed individuals shall be based on data for the most recent calendar year available, as determined by the Secretary of Labor.

(2) No State's allotment under this section for any fiscal year shall be less than 90 percent of its allotment percentage for the fiscal year preceding the fiscal year for which the determination is made. For the purpose of this section, the Secretary shall determine the allotment percentage for each State (including Guam and the Virgin Islands) for fiscal year 1984 which is the percentage that the State received under this Act for fiscal year 1983 of the total amounts available for payments to all States for such fiscal year. For each succeeding fiscal year, the allotment percentage for each such State shall be the percentage that the State received under this Act for the preceding fiscal year of the total amounts available for allotments for all States for such fiscal year.

(3) For each fiscal year, no State shall receive a total allotment under paragraphs (1) and (2) which is less than 0.28 percent of the total amount available for allotments for all States.

(4) The Secretary shall reserve such amount, not to exceed 3 percent of the sums available for allotments under this section for each fiscal year, as shall be necessary to assure that each State will have a total allotment under this section sufficient to provide staff and other resources necessary to carry out employment service activities and related administrative and support functions on a statewide basis.

(5) The Secretary shall, not later than March 15 of fiscal year 1983 and each succeeding fiscal year, provide preliminary planning estimates and shall, not later than May 15 of each such fiscal year, provide final planning estimates, showing each State's projected allocation for the following year.

SEC. 7. (a) Ninety percent of the sums allotted to each State pursuant to section 6 may be used—

(1) for job search and placement services to job seekers including counseling, testing, occupational and labor market information, assessment, and referral to employers;

(2) for appropriate recruitment services and special technical services for employers; and

(3) for any of the following activities:

(A) evaluation of programs;

(B) developing linkages between services funded under this Act and related Federal or State legislation, including the provision of labor exchange services at education sites;

(C) providing services for workers who have received notice of permanent layoff or impending layoff, or workers in occupations which are experiencing limited demand due to technological change, impact of imports, or plant closures;

(D) developing and providing labor market and occupational information;

(E) developing a management information system and compiling and analyzing reports therefrom; and

(F) administering the work test for the State unemployment compensation system and providing job finding and placement services for unemployment insurance claimants.

(b) Ten percent of the sums allotted to each State pursuant to section 6 shall be reserved for use in accordance with this subsection by the Governor of each such State to provide—

(1) performance incentives for public employment service offices and programs, consistent with performance standards established by the Secretary, taking into account direct or indirect placements (including those resulting from self-directed job search or group job search activities assisted by such offices or programs), wages on entered employment, retention, and other appropriate factors;

(2) services for groups with special needs, carried out pursuant to joint agreements between the employment service and the appropriate private industry council and chief elected official or officials or other public agencies or private nonprofit organizations; and

(3) the extra costs of exemplary models for delivering services of the types described in subsection (a).

(c) In addition to the services and activities otherwise authorized by this Act, the United States Employment Service or any State agency designated under this Act may perform such other services and activities as shall be specified in contracts for payment or reimbursement of the costs thereof made with the Secretary of Labor or with any Federal, State, or local public agency, or administrative entity under the Job Training Partnership Act, or private nonprofit organization.

SEC. 8. (a) Any State desiring to receive the benefits of this Act shall, by the agency designated to cooperate with the United States Employment Service, submit to the Secretary of Labor detailed plans for carrying out the provisions of this Act within such State.

(b) Prior to submission of such plans to the Secretary—

(1) the employment service shall develop jointly with each appropriate private industry council and chief elected official or officials for the service delivery area (designated under the Job Training Partnership Act) those components of such plans applicable to such area;

(2) such plans shall be developed taking into consideration proposals developed jointly by the appropriate private industry council and chief elected official or officials in the service delivery area affected;

(3) such plans, shall be transmitted to the State job training coordinating council (established under such Act) which shall certify such plans if it determines (A) that the components of such plans have been jointly agreed to by the employment service and appropriate private industry council and chief elected official or officials; and (B) that such plans are consistent with the Governor's coordination and special services plan under the Job Training Partnership Act;

(4) if the State job training coordinating council does not certify that such plans meet the requirements of clauses (A) and (B) of paragraph (3), such plans shall be returned to the employment service for a period of thirty days for it to consider, jointly with the appropriate private industry council and chief elected official or officials, the council's recommendations for modifying such plans; and

(5) if the employment services and the appropriate private industry council and the chief elected official or officials fail to reach agreement upon such components of such plans to be submitted finally to the Secretary, such plans submitted by the State agency shall be accompanied by such proposed modifications as may be recommended by any appropriated disagreeing private industry council and chief elected official or officials affected, and the State job training coordinating council shall transmit to the Secretary its recommendations for resolution thereof.

(c) The Governor of the State shall be afforded the opportunity to review and transmit to the Secretary proposed modifications of such plans submitted.

(d) Such plans shall include provision for the promotion and development of employment opportunities for handicapped persons and for job counseling and placement of such persons, and for the designation of at least one person in each State or Federal employment office, whose duties shall include the effectuation of such purposes. In those States where a State board, department, or agency exists which is charged with the administration of State laws for vocational rehabilitation of physically handicapped persons, such plans shall include provision for cooperation between such board, department, or agency and the agency designated to cooperate with the United States Employment Service under this Act.

(e) If such plans are in conformity with the provisions of this Act and reasonably appropriate and adequate to carry out its purposes, they shall be approved by the Secretary of Labor and due notice of such approval shall be given to the State agency.

SEC. 9. (a) (1) Each State shall establish such fiscal control and fund accounting procedures as may be necessary to assure the proper disbursal of, and accounting for, Federal funds paid to the recipient under this Act. The Director of the Office of Management and Budget, in consultation with the Comptroller General of the United States, shall establish guidance for the proper performance of audits. Such guidance shall include a review of fiscal controls and fund accounting procedures established by States under this section.

(2) At least once every two years, the State shall prepare or have prepared an independent financial and compliance audit of funds received under this Act.

(3) Each audit shall be conducted in accordance with applicable auditing standards set forth in the financial and compliance element of the Standards for Audit of Governmental Organizations, Programs, Activities, and Functions issued by the Comptroller General of the United States.

(b) (1) The Comptroller General of the United States shall evaluate the expenditures by States of funds received under this Act in order to assure that expenditures are consistent with the provisions of this Act and to determine the effectiveness of the State in accomplishing the purposes of this Act. The Comptroller General shall conduct evaluations whenever determined necessary and shall periodically report to the Congress on the findings of such evaluations.

(2) Nothing in this Act shall be deemed to relieve the Inspector General of the Department of Labor of his responsibilities under the Inspector General Act.

(3) For the purpose of evaluating and reviewing programs established or provided for by this Act, the Comptroller General shall have access to and the right to copy any books, accounts, records, correspondence, or other documents pertinent to such programs that are in the possession, custody, or control of the State.

(c) Each State shall repay to the United States amounts found not to have been expended in accordance with this Act. No such finding shall be made except after notice and opportunity for a fair hearing. The Secretary may offset such amounts against any other amount to which the recipient is or may be entitled under this Act.

SEC. 10. (a) Each State shall keep records that are sufficient to permit the preparation of reports required by this Act and to permit the tracing of funds to a level of expenditure adequate to insure that the funds have not been spent unlawfully.

(b) (1) The Secretary may investigate such facts, conditions, practices, or other matters which the Secretary finds necessary to determine whether any State receiving funds under this Act or any official of such State has violated any provision of this Act.

(2) (A) In order to evaluate compliance with the provisions of this Act, the Secretary shall conduct investigations of the use of funds received by States under this Act.

(B) In order to insure compliance with the provisions of this Act, the Comptroller General of the United States may conduct investigations of the use of funds received under this Act by any State.

(3) In conducting any investigation under this Act, the Secretary or the Comptroller General of the United States may not request new compilation of information not readily available to such State.

(c) Each State receiving funds under this Act shall—

(1) make such reports concerning its operations and expenditures in such form and containing such information as shall be prescribed by the Secretary, and

(2) establish and maintain a management information system in accordance with guidelines established by the Secretary designed to facilitate the compilation and analysis of programmatic and financial data necessary for reporting, monitoring, and evaluating purposes.

SEC. 11. (a) The Director shall establish a Federal Advisory Council composed of men and women representing employers and employees in equal numbers and the public for the purpose of formulating policies and discussing problems relating to employment and insuring impartiality, neutrality, and freedom from political influence in the solution of such problems. Members of such council shall be selected from time to time in such manner as the Director shall prescribe and shall serve without compensation, but when attending meetings of the council they shall be allowed necessary traveling and subsistence expenses, or per diem allowance in lieu thereof, within the limitations prescribed by law for civilian employees in the executive branch of the Government. The council shall have access to all files and records of the United States Employment Service. The Director shall also require the organization of similar State advisory councils composed of men and women representing employers and employees in equal numbers and the public. Nothing in this section shall be construed to prohibit the Governor from carrying out functions of

such State advisory council through the State job training coordinating council in accordance with section 122(c) of the Job Training Partnership Act.

(b) In carrying out the provisions of this Act the Director is authorized and directed to provide for the giving of notice of strikes or lockouts to applicants before they are referred to employment.

SEC. 12. The Director, with the approval of the Secretary of Labor, is hereby authorized to make such rules and regulations as may be necessary to carry out the provisions of this Act.

SEC. 13. (a) The Secretary is authorized to establish performance standards for activities under this Act which shall take into account the differences in priorities reflected in State plans.

(b) (1) Nothing in this Act shall be construed to prohibit the referral of any applicant to private agencies as long as the applicant is not charged a fee.

(2) No funds paid under this Act may be used by any State for advertising in newspapers for high paying jobs unless such State submits an annual report to the Secretary beginning in December 1984 concerning such advertising and the justifications therefor, and the justification may include that such jobs are part of a State industrial development effort.

SEC. 14. There are authorized to be appropriated such sums as may be necessary to enable the Secretary to provide funds through reimburseable agreements with the States to operate statistical programs which are essential for development of estimates of the gross national product and other national statistical series, including those related to employment and unemployment.

SEC. 15. This Act may be cited as the "Wagner-Peyser Act".

NATIONAL APPRENTICESHIP ACT

[Public Law No. 308—75th Congress]

AN ACT To enable the Department of Labor to formulate and promote the furtherance of labor standards necessary to safeguard the welfare of apprentices and to cooperate with the States in the promotion of such standards

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of Labor is hereby authorized and directed to formulate and promote the furtherance of labor standards necessary to safeguard the welfare of apprentices, to extend the application of such standards by encouraging the inclusion thereof in contracts of apprenticeship, to bring together employers and labor for the formulation of programs of apprenticeship, to cooperate with State agencies engaged in the formulation and promotion of standards of apprenticeship, and to cooperate with the National Youth Administration and with the Office of Education of the Department of the Interior in accordance with section 6 of the Act of February 23, 1917 (39 Stat. 932), as amended by Executive Order Numbered 6166, June 10, 1933, issued pursuant to an Act of June 30, 1932 (47 Stat. 414), as amended.

SEC. 2. The Secretary of Labor may publish information relating to existing and proposed labor standards of apprenticeship, and may appoint national advisory committees to serve without compensation. Such committees shall include representatives of employers, representatives of labor, educators, and officers of other executive departments, with the consent of the head of any such department.

SEC. 3. On and after the effective date of this Act the National Youth Administration shall be relieved of direct responsibility for the promotion of labor standards of apprenticeship as heretofore conducted through the division of apprenticeship training and shall transfer all records and papers relating to such activities to the custody of the Department of Labor. The Secretary of Labor is authorized to appoint such employees as he may from time to time find necessary for the administration of this Act, with regard to existing laws applicable to the appointment and compensation of employees of the United States: *Provided, however*, That he may appoint persons now employed in division of apprentice training of the National Youth Administration upon certification by the Civil Service Commission of their qualifications after nonassembled examinations.

SEC. 4. This Act shall take effect on July 1, 1937, or as soon thereafter as it shall be approved.

Approved, August 16, 1937.

VOCATIONAL EDUCATION ACT OF 1963, AS AMENDED [1] [2]

AN ACT To strengthen and improve the quality of vocational education and to expand the vocational education opportunities in the Nation, to extend for three years the National Defense Education Act of 1958 and Public Laws 815 and 874, Eighty-first Congress (federally affected areas), and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Title I of this Act may be cited as the "Vocational Education Act of 1963".

TITLE I—VOCATIONAL EDUCATION

PART A—STATE VOCATIONAL EDUCATION PROGRAMS

DECLARATION OF PURPOSE

SEC. 101. It is the purpose of this part to assist States in improving planning in the use of all resources available to them for vocational education and manpower training by involving a wide range of agencies and individuals concerned with education and training within the State in the development of the vocational education plans. It is also the purpose of this part to authorize Federal grants to States to assist them—

(1) to extend, improve, and, where necessary, maintain existing programs of vocational education.

(2) to develop new programs of vocational education,

(3) to develop and carry out such programs of vocational education within each State so as to overcome sex descrimination and sex stereotyping in vocational education programs (including programs of homemaking), and thereby furnish equal educational opportunities in vocational education to persons of both sexes, and

(4) to provide part-time employment for youths who need the earnings from such employment to continue their vocational training on a full-time basis,

so that persons of all ages in all communities of the State, those in high school, those who have completed or discontinued their formal education and are preparing to enter the labor market, those who have already entered the labor market, but need to upgrade their skills or learn new ones, those with special educational handicaps, and those in postsecondary schools, will have ready access to vocational training or retraining which is of high quality, which is realistic in the light of actual or anticipated opportunities for gainful employment, and which is suited to their needs, interests, and ability to benefit from such training.

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[1] As amended through Public Law 97–35.

[2] The Omnibus Budget Reconciliation Act of 1981 (Public Law 97–35) authorized to be appropriated such sums as may be necessary for the Vocational Education Act of 1963, for fiscal years 1982, 1983, and 1984, except that such sums may not exceed $735,000,000.

Subpart 1—General Provisions

AUTHORIZATION OF APPROPRIATIONS

SEC. 102. (a) There are authorized to be appropriated $880,000,000 for fiscal year 1978, $1,030,000,000 for fiscal year 1979, $1,180,000,000 for fiscal year 1980, $1,325,000,000 for fiscal year 1981, and $1,485,000,000 for fiscal year 1982, for the purpose of carrying out subparts 2 and 3 of this part.

(b) There are also authorized to be appropriated $35,000,000 for fiscal year 1978, $40,000,000 for fiscal year 1979, $45,000,000 for fiscal year 1980, $50,000,000 for fiscal year 1981, and $50,000,000 for fiscal year 1982, for the purpose of carrying out subpart 4 of this part.

(c) There are also authorized to be appropriated $55,000,000 for fiscal year 1978, $65,000,000 for fiscal year 1979, $75,000,000 for fiscal year 1980, $80,000,000 for fiscal year 1981, and $80,000,000 for fiscal year 1982 for the purpose of carrying out subpart 5 of this part.

(d) There are also authorized to be appropriated $25,000,000 for fiscal year 1978 and for each fiscal year ending prior to October 1, 1982, for the purpose of assisting States in—

(1) preparing the five-year plans required under section 107;

(2) preparing the annual program plans and accountability reports, including the collection of necessary data, required to be submitted under section 108;

(3) conducting the evaluations required by section 112.

ALLOTMENTS AMONG STATES

SEC. 103. (a)(1)(A) Subject to the provisions of subsection (d) of this section, from the sums appropriated pursuant to section 102(a), the Commissioner shall first reserve an amount equal to 5 per centum of such sums. From the amount so reserved, the Commissioner shall transfer an amount, not to be less than $3,000,000 but not to exceed $5,000,000 in any fiscal year, to the National Occupational Information Coordinating Committee established pursuant to section 161(b)(1) and the remainder of the amount so reserved shall be used by the Commissioner for programs of national significance under subpart 2 of part B.

(B)(i) From the remainder of the sums appropriated pursuant to section 102(a), the Commissioner is authorized to reserve for purposes of this subparagraph an amount approximately equivalent to the same percentage of that appropriation as the population aged fifteen to twenty-four, inclusive, which is eligible to receive educational benefits as Indians from the Bureau of Indian Affairs is to the total population of all the States aged fifteen to twenty-four, inclusive, except that such amount shall not exceed 1 per centum of such remaining appropriation.

(ii) For purposes of this subparagraph, the term "Act of April 16, 1934" means the Act entitled "An Act authorizing the Secretary of the Interior to arrange with States or territories for the education, medical attention, relief of distress, and social welfare of Indians, and for other purposes", enacted April 16, 1934 (48 Stat. 596; 25 U.S.C. 452–457).

(iii) The Commissioner is directed, upon the request of any Indian tribe which is eligible to contract with the Secretary of the Interior for the administration of programs under the Indian Self-Determination Act or under the Act of April 16, 1934, to enter into a contract or contracts with any tribal organization of any such Indian tribe to plan, conduct, and administer programs, or portions thereof, which are authorized by and consistent with the purposes of this Act, except that such contracts shall be subject to the terms and conditions of section 102 of the Indian Self-Determination Act and shall be conducted in accordance with the provisions of sections 4, 5, and 6 of the Act of April 16, 1934, which are relevant to the programs administered under this sentence. From any remaining funds reserved pursuant to division (i) of this subparagraph (b), the Commissioner is authorized to enter into an agreement with the Commissioner of the Bureau of Indian Affairs for the operation of vocational education programs authorized by this Act in institutions serving Indians described in division (i) of this subparagraph (B), and the Secretary of the Interior is authorized to receive these funds for those purposes. For the purposes of this Act, the Bureau of Indian Affairs shall be deemed to be a State board; and all the provisions of this Act shall be applicable to the Bureau as if it were a State board.

(2) From the remainder of the sums appropriated pursuant to section 102(a) and from all of the sums appropriated pursuant to sections 102(b), (c), and (d), the Commissioner shall allot to each State for each fiscal year—

(A) an amount which bears the same ratio to 50 per centum of the sums being allotted as the product of the population aged fifteen to nineteen inclusive, in the State in the fiscal year preceding the fiscal year for which the determination is made and the State's allotment ratio bears to the sum of the corresponding products for all the States;

(B) an amount which bears the same ratio to 20 per centum of the sums being allotted as the product of the population aged twenty to twenty-four, inclusive, in the State in the fiscal year preceding the fiscal year for which the determination is made and the State's allotment ratio bears to the sum of the corresponding products for all the States;

(C) an amount which bears the same ratio to 15 per centum of the sums being allotted as the product of the population aged twenty-five to sixty-five, inclusive, in the State in the fiscal year preceding the fiscal year for which the determination is made and the State's allotment ratio bears to the sum of the corresponding products for all the States; and

(D) an amount which bears the same ratio to 15 per centum of the sums being allotted as the amounts allotted to the State under subparagraphs (A), (B), and (C) for such years bears to the sum of the amounts allotted to all the States under subparagraphs (A), (B), and (C) for such year.

(b) (1) The amount of any State's allotment under subsection (a) for any fiscal year which is less than $200,000 shall be increased to that amount, the total of the increases thereby required being derived by proportionately reducing the allotments to each of the remaining States under such subsection, but with such adjustments as

may be necessary to prevent the allotment of any such remaining States from being thereby reduced to less than that amount.

(2) The amount of any State's allotment under subsection (a) for any fiscal year which the Commissioner determines will not be required for such fiscal year for carrying out the program for which such amount has been allotted shall be available, from time to time, for reallotment, on such dates during such year as the Commissioner shall fix, on the basis of criteria established by regulation, among other States, except that funds appropriated under section 102(b) may only be reallotted for the use set forth in section 140. Any amount reallotted to a State under this subsection for any fiscal year shall remain available for obligation during the next succeeding fiscal year and shall be deemed to be part of its allotment for the year in which it is obligated.

(c)(1) The allotment ratio for any State shall be 1.00 less the product of—

(A) 0.50; and

(B) the quotient obtained by dividing the per capita income for the State by the per capita income for all the States (exclusive of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Northern Mariana Island, and the Trust Territory of the Pacific Islands), except that (i) the allotment ratio in no case shall be more than 0.60 or less than 0.40 and (ii) the allotment ratio for Puerto Rico, Guam, American Samoa, the Virgin Islands, the Northern Mariana Island, and the Trust Territory of the Pacific Islands shall be 0.60.

(2) The allotment ratios shall be promulgated by the Commissioner for each fiscal year between October 1 and December 31 of the fiscal year preceding the fiscal year for which the determination is made. Allotment ratios shall be computed on the basis of the average of the appropriate per capita income for the three most recent consecutive fiscal years for which satisfactory data are available.

(3) The term "per capita income" means, with respect to a fiscal year, the total personal income in the calendar year ending in such year, divided by the population of the area concerned in such year.

(4) For the purposes of this section, population shall be determined by the Commissioner on the basis of the latest estimates available to him.

(d) The amount of any State's allotment under this section from appropriations provided under section 102, for any fiscal year shall not be less than the total amount of payments made to the State under allotments determined under this Act for the fiscal year ending June 30, 1976.

(e) From the sums allotted to a State under this section from appropriations made under section 102(a), 80 per centum of such sums shall be available to each State for the purpose of carrying out subpart 2 of this part and 20 per centum shall be available for the purpose of carrying out subpart 3 of this part.

STATE ADMINISTRATION

SEC. 104. (a)(1) Any State desiring to participate in the programs authorized by this Act shall, consistent with State law, designate or establish a State board or agency (hereinafter in this Act referred

to as the "State board") which shall be the sole State agency responsible for the administration, or for the supervision of the administration, of such programs. The responsibilities of the State board shall include—

(A) the coordination of the development of policy with respect to such programs;

(B) the coordination of the development, and the actual submission to the Commissioner, of the five-year State plan required by section 107 and of the annual program plan and accountability report required by section 108; and

(C) the consultation with the State advisory council on vocational education and other appropriate State agencies, councils and individuals involved in the planning and reporting as required by sections 107 and 108.

Except with respect to those functions set forth in the preceding sentence, the State board may delegate any of its other responsibilities in involving administration, operation, or supervision, in whole or in part, to one or more appropriate State agencies.

(2) Each State board shall certify to the Commissioner, as part of its annual program plan and accountability report submitted pursuant to section 108, any delegation of its responsibilities for administration, operation, or supervision of vocational education programs under this Act to other appropriate State agencies, setting forth the specific responsibility delegated and the specific agency involved.

(3) Each State board shall also certify to the Commissioner, as part of its five-year plan and as part of its annual program plan and accountability report, that each of the agencies, councils, and individuals required to be involved in formulating the five-year plan and the annual plan and report have been afforded the opportunity to be involved in accordance with the provisions of this Act.

(b) (1) Any State desiring to participate in the programs authorized by this Act shall also assign such full-time personnel as may be necessary to assist the State board in fulfilling the purposes of this Act by—

(A) taking such action as may be necessary to create awareness of programs and activities in vocational education programs;

(B) gathering, analyzing, and disseminating data on the status of men and women, students and employees in the vocational education programs of that State;

(C) developing and supporting actions to correct any problems brought to the attention of such personnel through activities carried out under clause (B) of this sentence;

(D) reviewing the distribution of grants by the State board to assure that the interests and needs of women are addressed in the projects assisted under this Act;

(E) reviewing all vocational education programs in the State for sex bias;

(F) monitoring the implementation of laws prohibiting sex discrimination in all hiring, firing, and promotion procedures within the State relating to vocational education;

(G) reviewing and submitting recommendations with respect to the overcoming of sex stereotyping and sex bias in vocational education programs for the annual program plan and report;

(H) assisting local educational agencies and other interested parties in the State in improving vocational education opportunities for women; and

(I) making readily available to the State board, the State and National Advisory Councils on Vocational Education, the State Commission on the Status of Women, the Commissioner and the general public, information developed pursuant to this subsection.

(2) From the funds appropriated to carry out subpart 2, each State shall reserve $50,000 in each fiscal year to carry out this subsection.

(3) For the purpose of this subsection, the term "State" means any one of the fifty States and the District of Columbia.

STATE AND LOCAL ADVISORY COUNCILS

SEC. 105. (a) Any State which desires to participate in programs under this Act for any fiscal year shall establish a State advisory council, which shall be appointed by the Governor or, in the case of States in which the members of the State board of education are elected (including election by the State legislature), by such board. Members of each State advisory council shall be appointed for terms of three years except that (1) in the case of the members appointed for fiscal year 1978, one-third of the membership shall be appointed for terms of one year each and one-third shall be appointed for terms of two years each, and (2) appointments to fill vacancies shall be for such terms as remain unexpired. Each State advisory council shall have as a majority of its members persons who are not educators or administrators in the field of education and shall include as members one or more individuals who—

(1) represent, and are familiar with, the vocational needs and problems of management in the State;

(2) represent, and are familiar with, the vocational needs and problems of labor in the State;

(3) represent, and are familiar with, the vocational needs and problems of agriculture in the State;

(4) represent State industrial and economic development agencies;

(5) represent community and junior colleges;

(6) represent other institutions of higher education, area vocational schools, technical institutes, and postsecondary agencies or institutions which provide programs of vocational or technical education and training;

(7) have special knowledge, experience, or qualifications with respect to vocational education but are not involved in the administration of State or local vocational education programs;

(8) represent, and are familiar with, public programs of vocational education in comprehensive secondary schools;

(9) represent, and are familiar with, nonprofit private schools;

(10) represent, and are familiar with, vocational guidance and counseling services;

(11) represent State correctional institutions;

(12) are vocational education teachers presently teaching in local educational agencies;

(13) are currently serving as superintendents or other administrators of local educational agencies;

(14) are currently serving on local school boards;

(15) represent the State Manpower Services Council established pursuant to section 107 of the Comprehensive Employment and Training Act of 1973;

(16) represent schools systems with large concentrations of persons who have special academic, social, economic, and cultural needs and of persons who have limited English-speaking ability;

(17) are women with backgrounds and experiences in employment and training programs, and who are knowledgeable with respect to the special experiences and problems of sex discrimination in job training and employment and of sex stereotyping in vocational education, including women who are members of minority groups and who have, in addition to such backgrounds and experiences, special knowledge of the problems of discrimination in job training and employment against women who are members of such groups.

(18) have special knowledge, experience, or qualifications with respect to the special educational needs of physically or mentally handicapped persons;

(19) represent the general public, including a person or persons representing and knowledgeable about the poor and disadvantaged; and

(20) are vocational education students who are not qualified for membership under any of the preceding clauses of this sentence.

Members of the State advisory council may not represent more than one of the above-specified categories. In appointing the State advisory council the Governor or the State board of education, as the case may be, shall insure that there is appropriate representation of both sexes, racial and ethnic minorities, and the various geographic regions of the State.

(b) Not less than ninety days prior to the beginning of any fiscal year in which a State desires to receive a grant under this Act, the State shall certify the establishment of, and membership of, its State advisory council to the Commissioner.

(c) Each State advisory council shall meet within thirty days after certification has been accepted by the Commissioner and shall select from among its membership a Chairman. The time, place, and manager of meeting, as well as council operating procedures and staffing, shall be as provided by the rules of the State advisory council, except that such rules must provide for not less than one public meeting each year at which the public is given an opportunity to express views concerning the vocational education program of the State.

(d) (1) Each State advisory council shall advise the State board in the development of the five-year State plan submitted under sec-

tion 107 and the annual program plan and accountability report submitted under section 108 and shall advise the State board on policy matters arising out of the administration of programs under such plans and reports.

(2) Each State advisory council shall also evaluate vocational education programs, services, and activities assisted under this Act, and publish and distribute the results thereof.

(3) Each State advisory council shall prepare and submit to the Commissioner and to the National Advisory Council created under section 162, through the State board, an annual evaluation report accompanied by such additional comments of the State board as the State board deems appropriate, which (A) evaluates the effectiveness of vocational education programs, services, and activities carried out in the year under review in meeting the program goals set forth in the five-year State plan submitted under section 107 and the annual program plan and accountability report submitted under section 108, including a consideration of the program evaluation reports developed by the State pursuant to section 112 and of the analysis of the distribution of Federal funds within the State submitted board by the State pursuant to section 108, and (B) recommends such changes in such programs, services, and activities as may be deemed necessary.

(4) (A) Each State advisory council shall identify, after consultation with the State Manpower Services Council, the vocational education and employment and training needs of the State and assess the extent to which vocational education, employment training, vocational rehabilitation, special education, and other programs assisted under this and related Acts represent a consistent, integrated, and coordinated approach to meeting such needs; and (B) comment, at least once annually, on the reports of the State Manpower Services Council, which comments shall be included in the annual report submitted by the State advisory council pursuant to this section and in the annual report submitted by the State council pursuant to section 107 of the Comprehensive Employment and Training Act of 1973.

(e) Each State advisory council is authorized to obtain the services of such professional, technical, and clerical personnel as may be necessary to enable it to carry out its functions under this Act and to contract for such services as may be necessary to carry out its evaluation functions, independent of programmatic and administrative control by other State boards, agencies, and individuals.

(f) (1) There are hereby authorized to be appropriated $8,000,000 for fiscal year 1978, $8,500,000 for fiscal year 1979, $9,000,000 for fiscal year 1980, $10,000,000 for fiscal year 1981, and $10,000,000 for fiscal year 1982, for the purpose of making grants to State advisory councils to carry out the functions specified in this section. From the sums appropriated pursuant to this subsection, the Commissioner shall, subject to the provisions of the following sentence, make grants to State advisory councils, from amounts allotted to such advisory councils in accordance with the method for allotment contained in section 103(a)(2), to carry out the functions specified in this section, and shall pay to each State advisory council an amount equal to the reasonable amounts expended by it in carrying out its functions under this Act in such fiscal year, except that no State advisory council shall

receive an amount to exceed $200,000 or an amount less than $75,000. In the case of Guam, American Samoa, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands, the Commissioner may pay the State advisory council in each such jurisdiction an amount less than the minimum specified in the preceding sentence if he determines that the council can perform its functions with a lesser amount.

(2) The expenditure of these funds is to be determined solely by the State advisory council for carrying out its functions under this Act, and may not be diverted or reprogrammed for any other purpose by any State board, agency or individual. Each council shall designate an appropriate State agency or other public agency, eligible to receive funds under this Act, to act as its fiscal agent for purposes of disbursement, accounting, and auditing.

(g)(1) Each eligible recipient receiving assistance under this Act to operate vocational education programs shall establish a local advisory council to provide such agency with advice on current jobs needs and on the relevancy of courses being offered by such agency in meeting such needs. Such local advisory councils shall be composed of members of the general public, especially of representatives of business, industry, and labor; and such local advisory councils may be established for program areas, schools, communities, or regions, whichever the recipient determines best to meet the needs of that recipient.

(2) Each State board shall notify eligible recipents within the State of the responsibilities of such recipients under the provisions of paragraph (1); and each State advisory council shall make available to such recipients and the local advisory councils of such recipients such technical assistance as such recipients may request to establish and operate such councils.

GENERAL APPLICATION

SEC. 106. (a) Any State desiring to receive the amount for which it is eligible for any fiscal year pursuant to this Act shall, through its State board, submit to, and maintain on file with, the Commissioner a general application providing assurances—

(1) that the State will provide for such methods of administration as are necessary for the proper and efficient administration of the Act;

(2) that the State board will cooperate with the State advisory council on vocational education in carrying out its duties pursuant to section 105 and with the agencies, councils, and individuals specified in sections 107 and 108 to be involved in the formulation of the five-year State plan and of the annual program plans and accountability reports;

(3) that the State will comply with any requests of the Commissioner for making such reports as the Commissioner may reasonably require to carry out his functions under this Act;

(4) that funds will be distributed to eligible recipients on the basis of annual applications which—

(A) have been developed in consultation (i) with representatives of the educational and training resources available

in the area to be served by the applicant and (ii) with the local advisory council required to be established by this Act to assist such recipients,

(B) (i) describe the vocational education needs of potential students in the area or community served by the applicant and indicate how, and to what extent, the program proposed in the application will meet such needs, and (ii) describe how the findings of any evaluations of programs operated by such applicant during previous years, including those required by this Act, have been used to develop the program proposed in the application,

(C) describe how the activities proposed in the application relate to manpower programs conducted in the area by a prime sponsor established under the Comprehensive Employment and Training Act, of 1973, if any, to assure a coordinated approach to meeting the vocational education and training needs of the area or community, and

(D) describe the relationship between vocational education programs proposed to be conducted with funds under this Act and other programs in the area or community which are supported by State and local funds;

and that any eligible recipient dissatisfied with final action with respect to any application for funds under this Act, shall be given reasonable notice and opportunity for a hearing.

(5) (A) that the State shall, in considering the approval of such applications, give priority to those applicants which—

(i) are located in economically depressed areas and areas with high rates of unemployment, and are unable to provide the resources necessary to meet the vocational education needs of those areas without Federal assistance, and

(ii) propose programs which are new to the area to be served and which are designed to meet new and emerging manpower needs and job opportunities in the area and, where relevant, in the States and the Nation; and

(B) that the State shall, in determining the amount of funds available under this Act which shall be made available to those applicants approved for funding, base such distribution on economic, social and demographic factors relating to the need for vocational education among the various populations and the various areas of the State, except that—

(i) the State will use as the two most important factors in determining this distribution (I) in the case of local educational agencies, The relative financial ability of such agencies to provide the resources necessary to meet the need for vocational education in the areas they service and the relative number or concentration of low-income families or individuals within such agencies, and (II) in the case of other eligible recipients, the relative financial ability of such recipients to provide the resources necessary to initiate or maintain vocational education programs to meet the needs of their students and the relative number or concentration of students whom they serve whose education imposes higher

than average costs, such as handicapped students, students from low-income families, and students from families in which English is not the dominant language; and

(ii) the State will not allocate such funds among eligible recipients within the State on the basis of per capita enrollment or through matching of local expenditures on a uniform percentage basis, or deny funds to any recipient which is making a reasonable tax effort solely because such recipient is unable to pay the non-Federal share of the cost of new programs;

(6) that Federal funds made available under this Act will be so used as to supplement, and to the extent practicable, increase the amount of State and local funds that would in the absence of such Federal funds be made available for the uses specified in the Act, and in no case supplant such State or local funds;

(7) that the State will make provision for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of, and accounting for, Federal funds paid to the State (including such funds paid by the State to eligible recipients under this Act);

(8) that funds received under this Act will not be used for any program of vocational education (except personnel training programs under section 135, renovation programs under subpart 4 of part B, and homemaking programs under subpart 5 of this part) which cannot be demonstrated to prepare students for employment, be necessary to prepare individuals for successful completion of such a program, or be of significant assistance to individuals enrolled in making an informed and meaningful occupational choice as an integral part of a program of orientation and preparation;

(9) that the State has instituted policies and procedures to insure that copies of the State plan and annual program plan and accountability report and all statements of general policies, rules, regulations, and procedures issued by the State board and by any State agencies to which any responsibility is delegated by the State board concerning the administration of such plan and report will be made reasonably available to the public; and

(10) that the funds used for purposes of section 110(a) are consistent with the State plan submitted pursuant to section 613(a) of the Education of the Handicapped Act.

(b) Such general application shall be considered to be the general application required to be submitted by the State for funds received under the Vocational Education Act of 1963 under the provisions of subsection (b) of section 434 of the General Education Provisions Act.

FIVE-YEAR STATE PLANS

SEC. 107. (a)(1) Any State desiring to receive funds under this Act shall submit to the Commissioner, during fiscal year 1977 and during each fifth fiscal year occuring thereafter, a State plan for

vocational education for the five fiscal years succeeding each such fiscal year in which the plan is submitted. In formulating this plan, the State board shall involve the active participation of—

(A) a representative of the State agency having responsibility for secondary vocational education programs, designated by that agency;

(B) a representative of the State agency, if such separate agency exists, having responsibility for postsecondary vocational education programs, designated by that agency;

(C) a representative of the State agency, if such separate agency exists, having responsibility for community and junior colleges, designated by that agency;

(D) a representative of the State agency, if such separate agency exists, having responsibility for institutions of higher education in the State, designated by that agency;

(E) a representative of a local school board or committee, as determined by State law;

(F) a representative of vocational education teachers, as determined by State law;

(G) a representative of local school administrators, as determined by State law;

(H) a representative of the State Manpower Services Council appointed pursuant to section 107(a)(2)(A)(i) of the Comprehensive Employment and Training Act of 1973, designated by that council;

(I) a representative of the State agency or commission responsible for comprehensive planning in postsecondary education, which planning reflects programs offered by public, private nonprofit and proprietary institutions, and includes occupational programs at a less-than-baccalaureate degree level, if such separate agency or commission exists, designated by that agency or commission; and

(J) a representative of the State advisory council on vocational education, designated by that council.

This participation shall include at least four meetings during the planning year between representatives of the State board and representatives of all of these agencies, councils, and individuals, meeting as a group. The first of these meetings shall be before the plan is developed; the second meeting shall be to consider the first draft of the plan; the third meeting shall be to consider the draft of the plan rewritten to reflect the results of the second meeting; and the fourth meeting shall be to approve the final plan. If these agencies, councils, and individuals, and the State board are not able to agree upon the provisions of the State plan, the State board shall have the responsibility of reaching a final decision on those provisions; but the State board shall include in the plan (A) the recommendations rejected by the board, (B) the agency, council, or individual making each such recommendation, and (C) the reasons of the State board for rejecting these recommendations. Any agency or council described above which is dissatisfied with any final decision of the State board may appeal the board's decision to the Commissioner. In such a case the Commissioner shall afford such agency or council and the State board reason-

able notice and opportunity for a hearing and shall determine whether the State board's decision is supported by substantial evidence, as shown in the State plan, and will best carry out the purposes of the Act. Any agency or State board dissatisfied with a final action of the Commissioner under this subsection may appeal to the United States Court of Appeals for the circuit in which the State is located in accordance with the procedure specified in section 434(d)(2) of the General Education Provisions Act.

(2) The State board shall, during the years in which it formulates any five-year plan required under this section, conduct a series of public hearings, after giving sufficient public notice, throughout all regions of the State in order to permit all segments of the population to give their views on the goals which ought to be adopted in the State plan, including the courses to be offered, the allocations of responsibility for these courses among the various levels of education and among the various institutions of the States, and the allocations of local, State, and Federal resources to meet those goals. These views shall be included in the final State plan with a description of how such views are reflected in the plan; and if particular views are not reflected, then the plan shall set out the reasons for rejecting them.

(b) The five-year State plans shall be submitted to the Commissioner by the July 1st preceding the beginning of the first fiscal year for which such plan is to take effect and shall—

(1) assess the current and future needs for job skills within the State and, where appropriate, within the pertinent region of the country, through consideration of the latest available data of present and projected employment, including the data available under section 161;

(2) set out explicitly the goals the State will seek to achieve by the end of the five-year period of the State plan in meeting the need for particular job skills identified through the assessment undertaken in accordance with paragraph (1), including (A) a description of these goals in terms of—

(i) the courses and other training opportunities to be offered to achieve those skills,

(ii) the projected enrollments of those courses and other training opportunities,

(iii) the allocations of responsibility for the offering of those courses and training opportunities among the various levels of education and among the various institutions of the State, and

(iv) the allocations of all local, State, and Federal financial resources available in the State among these courses and training opportunities, levels of education, and institutions within the State,

and (B) the reasons for choosing these courses and training opportunities, enrollments, allocations of responsibilities, and allocations of resources:

(3)(A) set out explicitly the planned uses of Federal, State, and local vocational education funds for each fiscal year of the State plan and show how these uses will enable the State to

achieve these goals, including (i) a description of these uses of funds in terms of the elements listed in clauses (2)(A)(i) through (2)(A)(iv) above, and (ii) the reasons for choosing these particular uses, except that the State will continue to use approximately the same amount of its State grant under subpart 2 of this part for programs in secondary schools during fiscal years 1978 and 1979 as it had used during fiscal years 1975 and 1976 unless the State is able to demonstrate in its five-year plan the need to shift funds from such use;

(B)(i) set out explicitly the uses which the State intends to make of the funds available to it under this Act, as those uses are set out in sections 120, 130, 140, and 150, and set out the reasons for choosing such uses; and (ii) set out explicitly the uses which the State intends to make of these funds to meet the special needs of handicapped and disadvantaged persons and persons who have limited English-speaking ability;

(4)(A) set forth policies and procedures which the State will follow so as to assure equal access to vocational education programs by both women and men including—

(i) a detailed description of such policies and procedures,

(ii) actions to be taken to overcome sex discrimination and sex stereotyping in all State and local vocational education programs, and

(iii) incentives, to be provided to eligible recipients so that such recipients will—

(I) encourage the enrollment of both women and men in nontraditional courses of study, and

(II) develop model programs to reduce sex stereotyping in all occupations; and

(B) set forth a program to assess and meet the needs of persons described in section 120(b)(1)(L) which shall provide for (i) special courses for such persons in learning how to seek employment, and (ii) placement services for such graduates of vocational education programs and courses; and

(5) set out criteria which have been developed for coordinating manpower training programs conducted by prime sponsors established under the Comprehensive Employment and Training Act of 1973 with vocational education programs assisted under this Act and for coordinating such vocational education programs with such manpower training programs.

ANNUAL PROGRAM PLANS AND ACCOUNTABILITY REPORTS

SEC. 108. (a)(1) Any State desiring to receive funds under this Act shall submit to the Commissioner an annual program plan and accountability report for each of the fiscal years included in the five-year State plan. In formulating this plan and report, the State board shall involve the active participation of the agencies, councils, and individuals who are required to be involved in formulating the five-year State plan as described in section 107. This participation shall include at least three meetings during each fiscal year between representatives of the State board and representatives of

all of these agencies, councils, and individuals, meeting as a group. The first of these meetings shall be before the plan and report is developed; the second meeting shall be to consider the draft of the plan and report; and the third meeting shall be to approve the final plan and report. If these agencies, councils, and individuals, and the State board are not able to agree upon the provisions of the plan and report, the State board shall have the same responsibility for reaching a final decision on those provisions as it has for reaching a final decision on the five-year State plan under section 107; and the same requirements shall be applicable concerning inclusion of rejected recommendations, appeal of the board's decision to the Commissioner, and judicial review as are applicable to the five-year State plan under section 107.

(2) The State board shall, during each fiscal year, conduct a public hearing, after giving sufficient public notice, on the annual planning and accountability report in order to permit all segments of the population to give their views on the provisions of the plan and report. These views shall be included in the final plan and report with a description of how such views are reflected in the plan and report; and if particular views are not reflected, then the plan and report shall set out the reasons for rejecting them.

(b) The annual program plan and accountability report shall be submitted to the Commissioners by the July 1st preceding the beginning of the fiscal year for which the plan is to be effective. This plan and report shall contain:

(1) planning provisions which—

(A) set out any updating of the five-year State plan deemed necessary to reflect later or more accurate employment data or a different level of funding than was anticipated;

(B) (i) set out explicitly how the State during that fiscal year will comply with the uses of Federal, State, and local funds proposed for that fiscal year in the five-year plan, including a description of these uses for State administration and in terms of the elements listed in clauses (2) (A) (i) through (2) (A) (iv) of section 107, and describe how these uses of funds may differ from those proposed in the five-year plan and give the reasons for any such changes;

(ii) set out explicitly the uses which the State intends to make of the funds available to it under this Act for that fiscal year, as those uses are set out in sections 120, 130, 140, and 150, and describe how those uses may differ from the uses proposed in the five-year plan and give the reasons for any such changes, and set out explicitly the proposed distribution of such funds among eligible recipients, together with an analysis of the manner in which such distribution complies with the Assurance given in the general application under section 106(a)(5), relating to the distribution of Federal funds; and

(C) show the results of the—

(i) coordination of programs funded under this Act with manpower training programs and of manpower training programs with programs funded under this Act;

(ii) compliance of the State plan with the provision contained in section 107(b)(4)(A) concerning providing equal access to programs by both men and women; and

(iii) participation of local advisory councils required to be established under section 105(g); and

(2) reporting provisions which—

(A) show explicitly the extent to which the State during the fiscal year preceding the submission of the plan and report has achieved the goals of the five-year plan and the degree to which the uses of Federal, State, and local funds proposed for that fiscal year in the plan have been complied with, including a description of these goals and uses in terms of the elements listed in clauses (2)(A)(i) through (2)(A)(iv) of section 107(b);

(B) show explicitly how funds available under this Act have been used during that fiscal year, including a description of the uses of these funds for State administration and among the authorized uses of funds set out in sections 120, 130, 140, and 150, and including a description of the distribution of these funds among local educational agencies and other eligible recipients in conforming with the requirements contained in section 106(a)(5), and give the results achieved with these funds, except that the Commissioner may modify this requirement pursuant to regulations in order to avoid any duplication of data-collection occurring under section 161 or under section 437 of the General Education Provisions Act; and

(C) contain a summary of the evaluations of programs required to be conducted by section 112 and a description of how the information from these evaluations has been, or is being, used by the State board to improve its programs.

SUBMISSION OF PLANS; WITHHOLDING AND JUDICIAL REVIEW

SEC. 109. (a)(1) The Commissioner shall not approve a five-year State plan submitted under section 107 until he has made specific findings, in writing, as to the compliance of such plan with the provisions of this Act and he is satisfied that adequate procedures are set forth to insure that the assurances of the general application submitted under section 106 and the provisions of the State plan will be carried out.

(2) The Commissioner shall not approve an annual program plan and accountability report submitted under section 108 until he has made specific findings, in writing, as to the compliance of such plan and report with the provisions of this Act, he is satisfied that adequate procedures are set forth to insure that the assurances of the general application submitted under section 107 are being carried out, and he is satisfied that the annual plan and report shows progress in achieving the goals set forth in the five-year State plan.

(3)(A) In carrying out the provisions of this subsection, the Commissioner shall provide for appropriate review of each State's five-year plan and annual program plan and report by the various agencies administering programs within the Office of Education re-

lated to the vocational education programs being proposed under the State plan or the program plan and report.

(B) In carrying out the provisions of this subsection, the Commissioner shall not approve a State or annual program plan and report until he has received assurances that the personnel assigned to review programs within the State to assure equal access by both men and women under the provisions of section 104(b) have been afforded the opportunity to review the plan or program plan and report.

(C) In carrying out the provisions of this subsection, the Commissioner shall not approve a State plan or annual program plan and report unless the State has complied in compiling this plan or program plan and report with the nationally uniform definitions and information elements which have been developed pursuant to section 161.

(b)(1) The Commissioner shall not finally disapprove any State plan or program plan and report submitted under this Act, or any modification thereof, without first affording the State board submitting the plan or program plan and report reasonable notice and opportunity for a hearing.

(2) The Commissioner shall not disapprove any plan or program plan and report submitted under this Act solely on the basis of the distribution of State and local expenditures for vocational education.

(c) Whenever the Commissioner, after reasonable notice and opportunity for hearing to the State board, finds that—

(1) the State plan or program plan and report has been so changed that it no longer complies with the provisions of this Act, or

(2) in the administration of the program or plan and report there is a failure to comply substantially with any such provision,

the Commissioner shall notify such State board that no further payments will be made to the State under this Act (or, in his discretion, further payments to the State will be limited to programs under or portions of the State plan or program plan and report not affected by such failure) until he is satisfied that there will no longer be any failure to comply. Until he is so satisfied, the Commissioner shall make no further payments to such State under this Act (or shall limit payments to programs under, or portions of, the State plan or program plan and report not affected by such failure).

(d) A State board which is dissatisfied with a final action of the Commission under this section may appeal to the United States court of appeals for the circuit in which the State is located, by filing a petition with such court within sixty days after such final action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Commissioner, or any officer designated by him for that purpose. The Commissioner thereupon shall file in the court the record of the proceedings on which he based his action, as provided in section 2112 to title 28, United States Code. Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Commissioner or to set aside such action, in whole or in part, temporarily or permanently, but until the filing of the record the Commissioner may modify or set aside his action. The findings of the Commissioner as to

the facts, if supported by substantial evidence, shall be conclusive, but the court, for good cause shown, may remand the case to the Commissioner to take further evidence, and the Commissioner may thereupon make new or modified findings of fact and may modify his previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive, if supported by substantial evidence. The judgment of the court affirming or setting aside, in whole or in part, any action of the Commissioner shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code. The commencement of proceedings under this subsection shall not, so specifically ordered by the court, operate as a stay of the Commissioner's action.

(e) (1) If any eligible recipient is dissatisfied with the final action of the State board or other appropriate State administering agency with respect to approval of an application by such eligible recipient for a grant pursuant to this Act, such eligible recipient may, within sixty days after such final action or notice thereof, whichever is later, file with the United States court of appeals for the circuit in which the State is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the State board or other appropriate State administering agency. The State board or such other agency thereupon shall file in the court the record of the proceedings on which the State board or such other agency based its action, as provided in section 2112 of title 28, United States Code.

(2) The findings of the fact by the State board or other appropriate administering agency, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the State board or other such agency to take further evidence, and the State board or such other agency may thereupon make new or modified findings of fact and may modify its previous action, and shall certify to the court the record of the further proceedings.

(3) The court shall have jurisdiction to affirm the action of the State board or other appropriate administering agency or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

(f) (1) The Commissioner shall prescribe and implement rules to assure that any hearing conducted under section 434(c) of the General Education Provisions Act in connection with funds made available from appropriations under this Act shall be held within the State of the affected unit of local government or geographic area within the State.

(2) For the purposes of paragraph (1)—

(A) the term "unit of local government" means a county, municipality, town, township, village, or other unit of general government below the State level; and

(B) the term "geographic area within a State" means a special purpose district or other region recognized for governmental purposes within such State which is not a unit of local government.

NATIONAL PRIORITY PROGRAMS

SEC. 110. (a) For each fiscal year, at least 10 per centum of each State's allotment under section 103 from appropriations made under section 102(a) shall be used to pay up to 50 per centum of the cost of programs, services, and activities under subpart 2 and of program improvement and supportive services under subpart 3 for handicapped persons.

(b)(1) For each fiscal year, at least 20 per centum of each State's allotment under section 103 from appropriations made under section 102(a) shall be used to pay up to 50 per centum of the cost of programs, services, and activities under subpart 2 and of program improvement and supportive services under subpart 3 for disadvantaged persons (other than handicapped persons), for persons who have limited English-speaking ability, and for providing stipends authorized under section 120(b)(1)(G).

(2) From the funds used by a State pursuant to paragraph (1), each State shall use an amount equivalent to the same percentage of the funds reserved pursuant to that paragraph as the population aged fifteen to twenty-four, inclusive, having limited English-speaking ability is to the total population of the State aged fifteen to twenty-four, inclusive, for providing vocational education for such persons with limited English-speaking ability, except that such amount shall not exceed the full sum used pursuant to paragraph (1).

(c) For each fiscal year at least 15 per centum of each State's allotment under section 103 from appropriations made under section 102(a) shall be used to pay up to 50 per centum of the cost of programs, services, and activities under subpart 2 and of program improvement and supportive services under subpart 3 for (1) persons who have completed or left high school and who are enrolled in organized programs of study for which credit is given toward an associate or other degree, but which programs are not designed as baccalaureate or higher degree programs, and 2 persons who have already entered the labor market, or are unemployed, or who have completed or left high school and who are not described in paragraph (1).

(d) Each State shall use, to the maximum extent possible, the funds required to be used for the purposes specified in subsections (a) and (b) to assist individuals described in those subsections to participate in regular vocational education programs.

(e) Pursuant to regulations established by the Commissioner, a State may exceed the 50 per centum Federal share specified in subsections (a) and (b) of the percentages set aside in subsections (a) and (b) by making larger payments with such funds to local educational agencies and other eligible recipients which are otherwise financially unable to provide such programs.

PAYMENTS TO STATES

SEC. 111. (a)(1) The Commissioner shall pay, from the amount available to each State for grants under thish part (except subpart 5) to eligible recipients, an amount not to exceed—

(A) 50 per centum of the cost of carrying out its annual program plan as approved pursuant to section 109, other than programs and activities for persons described in section 110;

(B) 50 per centum of the cost of programs, services, and activities under subpart 2 and program improvement and supportive services under subpart 3 for persons with special needs described in sections 110 (a), (b), and (c);

(C) a part of the costs of supervision and administration of vocational education programs by an eligible recipient, except that such payment shall not exceed (i) a percentage of such costs equal to the percentage of the total costs of the vocational education program of such eligible recipient paid for from this section, or (ii) 50 per centum of such costs if the non-Federal share of such costs is paid by the State from appropriations for such purpose; and

(D) 100 per centum of the cost of vocational education programs provided in accordance with sections 122(f), 132(b), and 140(b)(2).

except that in the case of the Trust Territory of the Pacific Islands, the Northern Mariana Islands, Guam, the Virgin Islands, and American Samoa, such amount shall be equal to 100 per centum of such expenditures.

(2)(A) In addition, the Commissioner shall pay, from each State's allotment under section 103 from appropriations made under section 102(a), an amount not to exceed the Federal share of the cost of State administration of such plans.

(B) For the purpose of this paragraph, the Federal share for any fiscal year shall be 50 per centum, except that (1) for fiscal year 1978 it shall be 80 per centum and for fiscal year 1979 it shall be 60 per centum, and (2) whenever the Commissioner determines in exceptional circumstances that for the latest fiscal year for which reliable data is available preceding fiscal year 1978 State and local expenditures for vocational education in a State exceed ten times the Federal expenditure for vocational education in that State, and that the State has an appropriate, economic, and efficient State, administration of the program, the Commissioner shall set the Federal share for fiscal year 1978 for that State in excess of the Federal share specified in clause (1), but not to exceed 100 per centum.

(b)(1) No payments shall be made in any fiscal year under this Act to any local educational agency or to any State unless the Commissioner finds, in the case of a local educational agency, that the combined fiscal effort per student or the aggregate expenditures of that agency and the State with respect to the provision of vocational education by that agency for the fiscal year preceding the fiscal year for which the determination was made was not less than such combined fiscal effort per student or the aggregate expenditures for that purpose for the second preceding fiscal year or, in the case of a State, that the fiscal effort per student or the aggregate expenditures of that State for vocational education in that State for the fiscal year preceding the fiscal year for which the determination was made was not less than such fiscal effort per student or the aggregate expenditures for vocational education for the second preceding fiscal year.

(2) No payments shall be made in any fiscal year under this Act to any postsecondary educational institution unless the Commissioner finds that the aggregate amount or the amount per student spent by such institution from current funds for vocational education purposes for the fiscal year preceding the fiscal year for which the determination was made was not less than such amount spent by such institution from current funds for the second preceding fiscal year.

(3) In addition, the Commissioner shall pay, from the amount available to each State from the amount appropriated under section 102(d), an amount not to exceed 100 per centum of the cost of carrying out the purposes described in such section 102(d).

FEDERAL AND STATE EVALUATIONS

SEC. 112. (a) In order for the Federal government to assist the States in operating the best possible programs of vocational education—

(1) the Commissioner shall within four months of the receipt of a State's annual program plan and accountability report transmit to that State board an analysis of such plan and report, including suggestions for improvements in the State's programs and findings contained in any program or fiscal audits performed in that State pursuant to paragraph (2); and

(2) the Bureau of Occupational and Adult Education shall, in at least ten States a fiscal year during the period beginning October 1, 1977, and ending September 30, 1982, conduct a review analyzing the strengths and weaknesses of the programs assisted with funds available under this Act within those States; and the Department of Health, Education, and Welfare shall, in the same period, conduct fiscal audits of such programs within those States.

(b) (1) In order for the States to assist local educational agencies and other recipients of funds in operating the best possible programs of vocational education—

(A) each State shall, during the five-year period of the State plan, evaluate the effectiveness of each program within the State being assisted with funds available under this Act; and the results of these evaluations shall be used to revise the State's programs; and shall be made readily available to the State advisory council; and

(B) each State shall evaluate, by using data collected, wherever possible, by statistically valid sampling techniques, each such program within the State which purports to impart entry level job skills according to the extent to which program completers and leavers—

(i) find employment in occupations related to their training, and

(ii) are considered by their employers to be well-trained and prepared for employment,

except that in no case can pursuit of additional education or training by program completers or leavers be considered negatively in these evaluations.

(2) Each State, in formulating its plans to fulfill these requirements, shall annually consult with the State advisory council which shall assist the State in developing these plans, monitor the evaluations conducted by the State, and use the results of these evaluations in compiling its annual report required by section 105.

(c) The Commissioner shall prepare and submit annually to the Congress, within nine months of the termination of each fiscal year, a report on the status of vocational education in the country during that fiscal year. This report shall include data on the information elements developed in the national vocational education data reporting and accounting system and an analysis of such data, and a summary of the findings of the reviews and audits required by paragraph (2) of subsection (a) and of the evaluations performed pursuant to paragraphs (1) and (2) of subsection (b).

Subpart 2—Basic Grant

AUTHORIZATION OF GRANTS AND USES OF FUNDS

SEC. 120. (a) From the sums made available for grants under this subpart pursuant to section 103, the Commissioner is authorized to make grants to States to assist them in conducting vocational education programs and other programs, services, and activities operated in accordance with the requirements of this subpart.

(b) (1) Grants to States under this subpart may be used, in accordance with five-year State plans and annual program plans approved pursuant to section 109, for the following purposes:

(A) vocational education programs;

(B) work study programs as described in section 121;

(C) cooperative vocational education programs as described in section 122;

(D) energy education programs as described in section 123;

(E) construction of area vocational education school facilities;

(F) support of full-time personnel to perform the duties described in section 104(b);

(G) the provision of stipends, subject to the restriction contained in paragraph (2), which shall not exceed reasonable amounts, as prescribed by the Commissioner pursuant to regutions, for students entering or already enrolled in vocational education programs, if those students have acute economic needs which cannot be met under work-study programs;

(H) placement services for students who have successfully completed vocational education programs, subject to the restriction contained in paragraph (2);

(I) industrial arts programs which such programs will assist in meeting the purposes of this Act;

(J) support services for women who enter programs designed to prepare individuals with employment in jobs which have been traditionally limited to men, including counseling as to the nature of such programs and the difficulties which may be encountered by women in such programs, and job development and job followup services;

(K) day care services for children of students in secondary and postsecondary vocational education program;

(L) vocational education for—

(i) persons who had solely been homemakers but who now, because of dissolution of marriage, must seek employment;

(ii) persons who are single heads of households and who lack adequate job skills;

(iii) persons who are currently homemakers and part-time workers but who wish to secure a full-time job; and

(iv) women who are now in jobs which have been traditionally considered jobs for females and who wish to seek employment in job areas which have not been traditionally considered for job areas for females, and men who are now in jobs which have been traditionally considered jobs for males and who wish to seek employment in job areas which have not been traditionally considered job areas for males;

(M) construction and operation of residential vocational schools as described in section 124;

(N) provision of vocational training through arrangements with private vocational training institutions where such private institutions can make a significant contribution to attaining the objectives of the State plan, and can provide substantially equivalent training at a lesser cost, or can provide equipment or services not available in public institutions; and

(O) subject to the provisions of section 111, the costs of supervision and administration of vocational education programs by eligible recipients, and State administration of the five-year plan submitted pursuant to section 107 and of the annual program plan submitted pursuant to section 108, except that not more than 80 per centum of the amount of payments determined under section 111 for such purposes shall be made from grants under this subpart.

(2) No funds shall be used for the purposes specified in subparagraph (G) or (H) of paragraph (1) unless the State board first makes a specific finding in each instance of funding that the funding of this particular activity is necessary due to inadequate funding in other programs providing similar activities or due to the fact that other services in the area are inadequate to meet the needs.

WORK STUDY PROGRAMS

SEC. 121. (a) Funds available to the States under section 120 may be used for grants to local educational agencies for work-study programs which—

(1) are administered by the local educational agencies and are made reasonably available (to the extent of available funds) to all youth youths in the area served by such agency who are able to meet the requirements of paragraph (2);

(2) provide that employment under such work-study programs shall be furnished only to a student who (A) has been accepted for enrollment as a full-time student in a vocational educational program which meets the standards prescribed by the State board and the local educational agency for vocational education programs assisted under this Act, or in the case of a

student already enrolled in such a program, is in good standing and in full-time attendance, (B) is in need of the earnings from such employment to commence or continue his vocational education program, and (C) is at least fifteen years of age and less than twenty-one years of age at the commencement of his employment, and is capable in the opinion of the appropriate school authorities, of maintaining good standing in his vocational education program while employed under the work-study program;

(3) provide that, pursuant to regulations of the Commissioner, no student shall be employed under such work-study program for more than a reasonable number of hours in any week in which classes in which he is enrolled are in session, or for compensation which exceeds payments under comparable Federal programs, unless the student is attending a school that is not within a reasonable commuting distance from his home, when the compensation may be set by the Commissioner at a higher level;

(4) provide that employment under such work-study program shall be for the local educational agency or for some other public or nonprofit private agency or institution; and

(5) provide that, in each fiscal year during which such program remains in effect, such agency shall expend (from sources other than payments from Federal funds under this section) for the employment of its students (whether or not in employment eligible for assistance under this section) an amount that is not less than its average annual expenditure for work-study programs of a similar character during the three fiscal years preceding the fiscal year in which its work-study program under this section is approved.

(b) Each State in operating work-study programs from funds made available under section 120 shall—

(1) adopt policies and procedures which assure that Federal funds used for this purpose will be expended solely for the payment or compensation of students employed pursuant to the work-study programs meeting the requirements of subsection (a); and

(2) set forth principles for determining the priority to be accorded applications from local educational agencies for work-study programs, which principles shall give preference to applications submitted by local educational agencies serving communities having substantial numbers of youths who have dropped out of school or who are unemployed, and provide for undertaking such programs, insofar as financial resources available therefor make possible, in the order determined by the application of such principles.

(c) Students employed in work-study programs assisted pursuant to this section shall not by reason of such employment be deemed employees of the United States, or their service Federal service, for any reason.

COOPERATIVE VOCATIONAL EDUCATION PROGRAMS

SEC. 122. Funds available to the States under section 120 may be used for establishing or expanding cooperative vocational education programs thr gh local educational agencies with the participation

of public and private employers. Such programs shall include provisions assuring that—

(a) funds will be used only for developing and operating cooperative vocational programs as defined in section 195(18) which provide training opportunities that may not otherwise be available and which are designed to serve persons who can benefit from such programs;

(b) necessary procedures are established for cooperation with employment agencies, labor groups, employers, and other community agencies in identifying suitable jobs for persons who enroll in cooperative vocational education programs;

(c) provision is made, where necessary, for reimbursement of added costs to employers for on-the-job training of students enrolled in cooperative programs, provided such on-the-job training is related to existing career opportunities susceptible of promotion and advancement and which do not displace other workers who perform such work;

(d) ancillary services and activities to assure quality in cooperative vocational education programs are provided for, such as pre-service and in-service training for teacher coordinators, supervision, curriculum materials, travel of students and coordinators necessary to the success of such programs, and evaluation;

(e) priority for funding cooperative vocational education programs through local educational agencies is given to areas that have high rates of school dropouts and youth unemployment;

(f) to the extent consistent with the number of students enrolled in nonprofit private schools in the area to be served, whose educational needs are of the type which the program or project involved is to meet, provision has been made for the participation of such students;

(g) Federal funds made available under this section to accommodate students in nonprofit private schools will not be commingled with State or local funds; and

(h) such accounting, evaluation, and following procedures as the Commission deems necessary will be provided.

ENERGY EDUCATION

SEC. 123. (a)(1) Funds available to States under section 120 may be used to make grants to postsecondary educational institutions to carry out programs for the training of miners, supervisors, technicians (particularly safety personnel), and environmentalists in the field of coal mining and coal mining technology, including acquisition of equipment necessary for the conduct of such program.

(2) Grants made under this section shall be made pursuant to applications which describe with particularity a program for the training of miners, supervisors, and technicians in the field of coal mining and coal mining technology, including provision for supplementary demonstration projects or short-term seminars, which program may include such curriculums as (A) the extraction, preparation, and transportation of coal, (B) the reclamation of coal mined land, (C)

the strengthening of health and safety programs for coal mine employees, (D) the disposal of coal mine wastes, and (E) the chemical and physical analysis of coal and materials, such as water and soil, that are involved in the coal mining process.

(b) Funds available under section 120 may also be used to make grants to postsecondary educational institutions to carry out programs for the training of individuals needed for the installation of solar energy equipment, including training necessary for the installation of glass paneled solar collectors and of wind energy generators, and for the installation of other related applications of solar energy.

RESIDENTIAL VOCATIONAL SCHOOLS

SEC. 124. (a) Funds available to the States under section 120 may be used for the construction, equipment, and operation of residential schools to provide vocational education (including room, board, and other necessities) for youths, at least fifteen years of age and less than twenty-one years of age at the time of enrollment, who need full-time study on a residential basis in order to benefit fully from such education. In using funds available under section 120 for this purpose, the States shall give special consideration to the needs of large urban areas and isolated rural areas having substantial numbers of youths who have dropped out of school or who are unemployed.

(b) No funds made available under section 120 may be used for the purposes of this section for residential vocational schools to which juveniles are assigned as the result of their delinquent conduct or in which the students are segregated because of race.

Subpart 3—Program Improvement and Supportive Services

AUTHORIZATION OF GRANTS AND USES OF FUNDS

SEC. 130. (a) From the sums made available for grants under this subpart pursuant to section 103 the Commissioner is authorized to make grants to States to assist them in improving their vocational education programs and in providing supportive services for such programs in accordance with the provisions of this subpart.

(b) Grants to States under this subpart may be used, in accordance with five-year State plans, and annual program plans approved pursuant to section 109, for the following purposes:

(1) research programs as described in section 131;

(2) exemplary and innovative programs as described in section 132;

(3) curriculum development programs as described in section 133;

(4) provision of guidance and counseling services, programs, and activities as described in section 134;

(5) provision of pre-service and in-service training as described in section 135;

(6) grants to overcome sex bias as described in section 136;

(7) subject to the provisions section 111, the costs of supervision and administration of vocational education programs by eligible recipients, and State administration of the five-year plan

submitted pursuant to section 107 and of the annual program plan submitted pursuant to section 108, except that not more than 20 per centum of the amount of payments determined under section 111 for such purposes shall be made from grants under this subpart.

RESEARCH

SEC. 131. (a) Funds available to the States under section 130(a) may be used for support of State research coordinating units and for contracts by those units pursuant to comprehensive plans of program improvement involving—

(1) applied research and development in vocational education;

(2) experimental, developmental, and pilot programs and projects designed to test the effectiveness of research findings, including programs and projects to overcome problems of sex bias and sex stereotyping;

(3) improved curriculum materials for presently funding programs in vocational education and new curriculum materials for new and emerging job fields, including a review and revision of any curricula developed under this section to insure that such curricula do not reflect stereotypes based on sex, race, or national origin;

(4) projects in the development of new careers and occupations, such as—

(A) research and experimental projects designed to identify new careers in such fields as mental and physical health, crime prevention and correction, welfare, education, municipal services, child care, and recreation, requiring less training than professional positions, and to delineate within such career roles with the potential for advancement from one level to another;

(B) training and development projects designed to demonstrate improved methods of securing the involvement, cooperation, and commitment of both the public and private sectors toward the end of achieving greater coordination and more effective implementation of programs for the employment of persons in the fields described in subparagraph (A), including programs to prepare professionals (including administrators) to work effectively with aides; and

(C) projects to evaluate the operation of programs for the training, development, and utilization of public service aides, particularly their effectiveness in providing satisfactory work experiences and in meeting public needs;

and

(5) dissemination of the results of the contracts made pursuant to paragraphs (1) through (4), including employment of persons to act as disseminators, on a local level, of these results.

(b) No contract shall be made pursuant to subsection (a) unless the applicant can demonstrate a reasonable probability that the contract will result in improved teaching techniques or curriculum materials that will be used in a substantial number of classrooms or other learning situations within five years after the termination date of such contract.

EXEMPLARY AND INNOVATIVE PROGRAMS

SEC. 132. (a) Funds available to the States under section 130(a) may be used for contracts by State research coordinating units pursuant to comprehensive plans of program improvement for the support of exemplary and innovative programs, including—

(1) programs designed to develop high quality vocational education programs for urban centers with high concentrations of economically disadvantaged individuals, unskilled workers, and unemployed individuals;

(2) programs designed to develop training opportunities for persons in sparsely populated rural areas and for individuals migrating from farms to urban areas;

(3) programs of effective vocational education for individuals with limited English-speaking ability;

(4) establishment of cooperative arrangements between public education and manpower agencies, designed to correlate vocational education opportunities with current and projected needs of the labor market; and

(5) programs designed to broaden occupational aspirations and opportunities for youth, with special emphasis given to youth who have academic, socioeconomic, or other handicaps, including—

(A) programs and projects designed to familiarize elementary and secondary school students with the broad range of occupations for which special skills are required, and the requisites for careers in such occupations; and

(B) programs and projects to facilitate the participation of employers and labor organizations in postsecondary vocational education.

(b) Every contract made by a State for the purpose of funding exemplary and innovative projects shall give priority to programs and projects designed to reduce sex stereotyping in vocational education and shall, to the extent consistent with the number of students enrolled in nonprofit private schools in the area to be served whose educational needs are of the type which the program or project involved is to meet, provide for the participation of such students; and such contract shall also provide that the Federal funds made available under this section to accommodate students in nonprofit private schools will not be commingled with State or local funds.

(c) The annual program plan and accountability report covering the final year of financial support by the State for any such program or project shall indicate the proposed disposition of the program or project following the cessation of Federal support and the means by which successful or promising programs or projects will be continued and expanded within the State.

CURRICULUM DEVELOPMENT

SEC. 133. (a) Funds available to the States, under section 130(a) may be used for contracts by State research coordinating units pursuant to comprehensive plans of program improvement for the support of curriculum development projects, including—

(1) the development and dissemination of vocational education curriculum materials for new and changing occupational fields and for individuals with special needs, as described in section 110; and

(2) the development of curriculum and guidance and testing materials designed to overcome sex bias in vocational education programs, and support services designed to enable teachers to meet the needs of individuals enrolled in vocational education programs traditionally limited to members of the opposite sex.

(b) No contract shall be made pursuant to subsection (a) unless the applicant can demonstrate a reasonable probability that the contract will result in improved teaching techniques or curriculum materials that will be used in a substantial number of classrooms or other learning situations within five years after the termination date of such contract.

VOCATIONAL GUIDANCE AND COUNSELING

SEC. 134. (a) Not less than 20 per centum of the funds available to the States under section 130(a) shall be used to support programs for vocational development guidance and counseling programs and services which, subject to the provisions of subsection (b), shall include one or more of the following activities—

(1) initiation, implementation, and improvement of high quality vocational guidance and counseling programs and activities;

(2) vocational counseling for children, youth, and adults, leading to a greater understanding of educational and vocational options;

(3) provision of educational and job placement services, including programs to prepare individuals for professional occupations or occupations requiring a baccalaureate or higher degree, including followup services;

(4) vocational guidance and counseling training designed to acquaint guidance counselors with (A) the changing work patterns of women, (B) ways of effectively overcoming occupational sex stereotyping, and (C) ways of assisting girls and women in selecting careers solely on their occupational needs and interests, and to develop improved career counseling materials which are free;

(5) vocational and educational counseling for youth offenders and adults in correctional institutions;

(6) vocational guidance and counseling for persons of limited English-speaking ability;

(7) establishment of vocational resource centers to meet the special needs of out-of-school individuals, including individuals seeking second careers, individuals entering the job market late in life, handicapped individuals, individuals from economically depressed communities or areas, and early retirees; and

(8) leadership for vocational guidance and exploration programs at the local level.

(b) Each State which chooses to fund activities described in paragraph (1) or (2) of subsection (a) of this section shall use those funds, insofar as is practicable, for funding programs, services, or activities

by eligible recipients which bring individuals with experience in business and industry, the professions, and other occupational pursuits into schools as counselors or advisors for students, and which bring students into the work establishments of business and industry, the professions, and other occupational pursuits for the purpose of acquainting students with the nature of the work that is accomplished therein, and for funding projects of such recipients in which guidance counselors obtain experience in business and industry, the professions, and other occupational pursuits which will better enable those counselors to carry out their guidance and counseling duties.

VOCATIONAL EDUCATION PERSONNEL TRAINING

SEC. 135. (a) Funds available to the States under section 130(a) may be used to support programs or projects designed to improve the qualifications of persons serving or preparing to serve in vocational education programs, including teachers, administrators, supervisors, and vocational guidance and counseling personnel, including programs or projects—

(1) to train or retrain teachers, and supervisors and trainers of teachers in vocational education in new and emerging occupations;

(2) which provide in-service training for vocational education teachers and other staff members, to improve the quality of instruction, supervision, and administration of vocational education programs, and to overcome sex bias in vocational education programs;

(3) which provide for exchange of vocational education teachers and other personnel with skilled workers or supervisors in business, industry, and agriculture (including mutual arrangements for preserving employment and retirement status and other employment benefits during the period of exchange), and the development and operation of cooperative programs involving periods of teaching in schools providing vocational education and of experience in commercial, industrial, or other public or private employment related to the subject matter taught in such school;

(4) to prepare journeymen in the skilled trades or occupations for teaching positions;

(5) to train and to provide in-service training for teachers and supervisors and trainers of teachers in vocational education to improve the quality of instruction, supervision, and administration of vocational education for persons with limited English-speaking ability and to train or retrain counseling and guidance personnel to meet the special needs of persons with limited English-speaking ability; and

(6) which provide short-term or regular-session institutes designed to improve the qualifications of persons entering or reentering the field of vocational education in new and emerging occupational areas in which there is a need for such personnel.

(b) A State may include in the terms of any grant or contract under this section provisions authorizing the payment, to persons participat-

ing in the training programs supported under this section, of such stipends (including allowances for subsistence and other expenses for such persons and their dependents) as the Commissioner may determine, pursuant to regulations, consistent with prevailing practices under comparable programs.

GRANTS TO ASSIST IN OVERCOMING SEX BIAS

SEC. 136. Funds available to the States under section 130(a) may be used to support activities which show promise of overcoming sex stereotyping and bias in vocational education.

Subpart 4—Special Programs for the Disadvantaged

SPECIAL PROGRAMS FOR THE DISADVANTAGED

SEC. 140. (a) From the sums made available for grants under this subpart pursuant to sections 102 and 103, the Commissioner is authorized to make grants to States to assist them in conducting special programs for the disadvantaged (as defined in section 195(16)) in accordance with the requirements of this subpart.

(b)(1) Grants to States under this subpart shall be used, in accordance with five-year State plans and annual program plans approved pursuant to section 109, for allocation within the State to areas of high concentrations of youth unemployment and schools dropouts, and shall be used to pay the full cost of vocational education for disadvantaged persons.

(2) Such funds may be granted to eligible recipients only if (A) to the extent consistent with the number of students enrolled in nonprofit private schools in the area to be served whose educational needs are of the type which the program or project involved is to meet, provision has been made for the participation of such students, and (B) effective policies and procedures have been adopted which assure that Federal funds made available under this subpart to accommodate students in nonprofit private schools will not be commingled with State or local funds.

Subpart 5—Consumer and Homemaking Education

CONSUMER AND HOMEMAKING EDUCATION

SEC. 150. (a) From the sums made available for grants under this subpart pursuant to sections 102 and 103, the Commissioner is authorized to make grants to States to assist them in conducting consumer and homemaking education programs.

(b) Grants to States under this subpart may be used, in accordance with five-year State plans and annual program plans approved pursuant to section 109, solely for (1) educational programs in consumer and homemaking education consisting of instructional programs, services, and activities at all educational levels for the occupations of homemaking including but not limited to, consumer education, food and nutrition, family living and parenthood education, child development and guidance, housing and home management (including resource management), and clothing and textiles which (A) encourage

participation of both males and females to prepare for combining the roles of homemakers and wage earners; (B) encourage elimination of sex stereotyping in consumer and homemaking education by promoting the development of curriculum material which deal (i) with increased numbers of women working outside the home, and increased numbers of men assuming homemaking responsibilities and the changing career patterns for women and men and (ii) with appropriate Federal and State laws relating to equal opportunity in education and employment; (C) give greater consideration to economic, social, and cultural conditions and needs especially in economically depressed areas and such courses may include where appropriate bilingual instruction; (D) encourage outreach programs in communities for youth and adults giving considerations to special needs such as, but not limited to, aged, young children, school-age parents, single parents, handicapped persons, educationally disadvantaged persons, and programs connected with health care delivery systems, and programs providing services for courts and correctional institutions; (E) prepare males and females, who have entered or are preparing to enter the work of the home; (F) emphasize consumer education, management of resources, promotion of nutritional knowledge and food use, and parenthood education to meet the current societal needs, and (2) ancillary services, activities and other means of assuring quality in all homemaking education programs such as teacher training and supervision, curriculum development, research, program evaluation, special demonstration, and experimental programs, development of instructional materials, exemplary projects, provision of equipment, and State administration and leadership.

(c) Notwithstanding the provisions contained in section 111(a), from a State's allotment determined under section 103 for any fiscal year from the funds appropriated pursuant to section 102(c), the Commissioner shall pay to such State an amount equal to 50 per centum of the amount expended for the purposes set forth in subsection (b), except that the Commissioner shall pay an amount to each State equal to 90 per centum of the amount used in areas described in subsection (d).

(d) At least one-third of the Federal funds made available under this section to each State shall be used in economically depressed areas or areas with high rates of unemployment for programs designed to assist consumers and to help improve home environments and the quality of family life.

Part B—National Programs

Subpart 1—General Provisions

FEDERAL ADMINISTRATION

Sec. 160. (a) There is established in the United States Office of Education a Bureau of Occupational and Adult Education (hereinafter in this Act referred to as the "Bureau"), which shall be responsible for (1) the administration of all the programs authorized by this Act and the Adult Education Act, (2) functions of the Office of Education relating to manpower training and development, (3) functions of that

Office relating to postsecondary vocational, technical, and occupational training funded under this Act, (4) the administration of any other Act of Congress vesting authority in the Commissioner for vocational, occupational, and adult education, and (5) the administration of those portions of any Act of Congress relating to career education which are relevant to the purposes of other Acts of Congress administered by the Bureau.

(b)(1) The Bureau shall be headed by a person (appointed or designated by the Commissioner) who is highly qualified in the fields of vocational, technical, and occupational education, who is accorded the rank of Deputy Commissioner.

(2) Additional positions are created for, and shall be assigned to, the Bureau as follows:

(A) three positions to be placed in grade 17 of such General Schedule, one of which shall be filled by a person with broad experience in the field of junior and community college education.

(B) seven positions to be placed in grade 16 of such General Schedule, at least two of which shall be filled by persons with broad experience in the field of postsecondary-occupational education in community and junior colleges, at least one of which shall be filled by a person with broad experience in education in private proprietary institutions, and at least one of which shall be filled by a person with professional experience in occupational guidance and counseling, and

(C) three positions which shall be filled by persons at least one of whom is a skilled worker in a recognized occupation, another is a subprofessional technician in one of the branches of engineering, and the other is a subprofessional worker in one of the branches of social or medical services, who shall serve as senior advisers in the administration of the programs in the Bureau.

(3) The Commissioner shall assign to the Bureau, by the end of fiscal year 1978, at least 50 per centum more persons to directly administer the programs authorized under this Act than were assigned to directly administer this Act during fiscal year 1976.

VOCATIONAL EDUCATION DATA AND OCCUPATIONAL INFORMATIONAL DATA SYSTEMS

SEC. 161. (a)(1) The Commissioner and the Administrator of the National Center for Education Statistics shall, by September 30, 1977, jointly develop information elements and uniform definitions for a national vocational education data reporting and accounting system. This system shall include information resulting from the evaluations required to be conducted by section 112(b) (as such section will be in effect on October 1, 1977) and other information on vocational—

(A) students (including information on their race and sex),
(B) programs,
(C) program completers and leavers,
(D) staff,
(E) facilities, and
(F) expenditures.

(2) In developing this system, the Commissioner and the Administrator shall endeavor as much as possible to make the system com-

patible with the occupational information data system developed pursuant to subsection (b) and other information systems involving data on programs assisted under the Comprehensive Employment and Training Act of 1973.

(3) (A) After the completion of the development of these information elements and uniform definitions pursuant to paragraph (1), the Administrator, shall immediately begin to design, implement, and operate this information system which shall be in full operation for the fiscal year beginning October 1, 1978.

(B) Any State receiving assistance under this Act shall cooperate with the Administrator in supplying the information required to be submitted by the Administrator and shall comply in its reports with the information elements and definitions developed jointly by the Administrator and the Commissioner pursuant to paragraph (1). Each State shall submit this data to the Administrator in whatever form he requires; and, whenever possible, this reporting shall include reporting of data by labor market areas within the State.

(4) The Administrator shall have the responsibility for updating this national vocational education information and accounting system and for preparing annual acquisition plans of data for operating this system. These plans shall be submitted to the Commissioner for his review and comment.

(b) (1) There is hereby established a National Occupational Information Coordinating Committee which shall consist of the Commissioner, the Administrator, the Commissioner of Labor Statistics, and the Assistant Secretary for Employment and Training. This Committee, with funds available to it under section 103(a) (as such section will be in effect on the date of the enactment of the Education Amendments of 1976), shall—

(A) in the use of program data and employment data, improve coordination between, and communication among, administrators and planners of programs authorized by this Act and by the Comprehensive Employment and Training Act of 1973, employment security agency administrators, research personnel, and employment and training planning and administering agencies at the Federal, State, and local levels;

(B) develop and implement, by September 30, 1978, an occupational information system to meet the common occupational information needs of vocational education programs and employment and training programs of the national, State, and local levels, which system shall include data on occupational demand and supply based on uniform definitions, standardized estimating procedures, and standardized occupational classifications; and

(C) assist State occupational information coordinating committees established pursuant to paragraph (2).

(2) By September 30, 1977, each State receiving assistance under this Act and under the Comprehensive Employment and Training Act of 1973 shall establish a State occupational information coordinating committee composed of representatives of the State board, the State employment security agency, the State Manpower Services Council, and the agency administering the vocational rehabilitation program. This committee shall, with funds available to it from the National

Coordinating Committee established pursuant to paragraph (1), implement an occupational information system in the State which will meet the common needs for the planning for, and the operation of, programs of the State board assisted under this Act and of the administering agencies under the Comprehensive Employment and Training Act of 1973.

NATIONAL ADVISORY COUNCIL ON VOCATIONAL EDUCATION

SEC. 162. (a) The National Advisory Council on Vocational Education, established pursuant to section 104(a) of the Vocational Education Act of 1963, in effect prior to the enactment of the Education Amendments of 1976, shall continue to exist during the period for which appropriations are authorized under this Act. Individuals who are members of the Council on the date of the enactment of this Act may continue to serve for the terms for which they are appointed. Members appointed to succeed such individuals shall be appointed by the President for terms of three years. The Council shall consist of twenty-one members, each of whom shall be designated as representing one of the categories set forth in the following sentence. The National Advisory Council shall include individuals—

(1) representative of labor and management, including persons who have knowledge of semiskilled, skilled, and technical employment;

(2) representative of new and emerging occupational fields;

(3) knowledgeable in the field of vocational guidance and counseling;

(4) representing the National Commission for Manpower Policy created pursuant to title V of the Comprehensive Employment and Training Act of 1973;

(5) representing nonprofit private schools;

(6) who are women with backgrounds and experiences in employment and training programs, who are knowledgeable with respect to problems of sex discrimination in job training and in employment, including women who are members of minority groups and who have, in addition to such backgrounds and experiences, special knowledge of the problems of discrimination in job training and employment against women who are members of such groups;

(7) knowledgeable about the administration of State and local vocational education programs, including members of school boards and private institutions;

(8) experienced in the education and training of handicapped persons and of persons of limited English-speaking ability (as defined in section 703(a) of the Elementary and Secondary Education Act of 1965);

(9) familiar with the special problems and needs of individuals disadvantaged by their socioeconomic backgrounds;

(10) having special knowledge of postsecondary and adult vocational education programs;

(11) familiar with the special problems of individuals in correctional institutions; and

(12) representative of the general public who are not Federal employees, including parents and students, except that they must not be representative of categories (1) through (11), and who shall constitute not less than one-third of the total membership.

The National Council shall have as a majority of its members persons who are not educators or administrators in the field of education. In appointing the National Advisory Council, the President shall insure that there is appropriate representation of both sexes, racial and ethnic minorities, and the various geographic regions of the country. The President shall select the chairman. The National Advisory Council shall meet at the call of the Chairman, but not less than four times a year.

(b) The National Advisory Council shall—

(1) advise the President, Congress, Secretary, and Commissioner concerning the administration of, preparation of general regulations and budget requests for, and operation of, vocational education programs supported with assistance under this Act;

(2) review the administration and operation of vocational education programs under this Act, and other pertinent laws affecting vocational education and manpower training (including the effectiveness of such programs in meeting the purposes for which they are established and operated), make recommendations with respect thereto, and make annual reports of its findings and recommendations (including recommendations for changes in the provisions of this Act and such other pertinent laws) to the President, Congress, Secretary, and Commissioner;

(3) make such other reports or recommendations to the President, Congress, Secretary, Commissioner, or head of any other Federal department or agency as it may deem desirable;

(4) (A) identify, after consultation with the National Commission for Manpower Policy, the vocational education and employment and training needs of the Nation and assess the extent to which vocational education, employment training, vocational rehabilitation, special education, and other programs, under this and related Acts represent a consistent, integrated, and coordinated approach to meeting such needs; and (B) comment, at least once annually, on the reports of the National Commission, which comments shall be included in one of the reports submitted by the National Advisory Council pursuant to this section and in one of the reports submitted by the National Commission pursuant to section 505 of the Comprehensive Employment and Training Act of 1973.

(5) conduct such studies, hearings, or other activities as it deems necessary to enable it to formulate appropriate recommendations;

(6) conduct independent evaluations of programs carried out under this Act and publish and distribute the results thereof; and

(7) provide technical assistance and leadership to State advisory councils established pursuant to section 105, in order to assist them in carrying out their responsibilities under this Act.

(c) There are authorized to be appropriated $450,000 for the fiscal year ending September 30, 1978, $475,000 for the fiscal year ending prior to September 30, 1979 and $500,000 for each of the fiscal years

ending prior to September 30, 1982 for the purposes of this subsection. The Council is authorized to use the funds appropriated pursuant to the preceding sentence to carry out its functions as set forth in this section and to engage such technical assistance as may be required to assist it in performing these functions. The National Council may accept gifts if the acceptance of such gifts will better enable it to carry out its functions under this section.

Subpart 2—Programs of National Significance

PROGRAM IMPROVEMENT

SEC. 171. (a) Funds reserved to the Commissioner under section 103 for programs under this part shall be used primarily for contracts, and some cases for grants, for—

(1) activities authorized by sections 131, 132, 133, 134, 135, and 136, if such activities are deemed to be of national significance by the Commissioner;

(2) support of a national center for research in vocational education, chosen once every five years, which center shall be a nonprofit agency, shall be assisted by an advisory committee appointed by the Commissioner, shall have such locations, including contracts with one or more regional research centers, as shall be determined by the Commissioner after consultation with the national center and its advisory committee taking into consideration the vocational education research resources available, geographical area to be served and the schools, program, projects, and students and areas to be served by research activities, and shall, either directly or through other public agencies—

(A) conduct applied research and development on problems of national significance in vocational education;

(B) provide leadership development through an advanced study center and inservice education activities for State and local leaders in vocational education;

(C) disseminate the results of the research and development projects funded by the center;

(D) develop and provide information to facilitate national planning and policy development in vocational education;

(E) (i) act as a clearinghouse for information on contracts made by the States pursuant to section 131, section 132, and section 133, and on contracts made by the Commissioner pursuant to this section; and (ii) compile an annotated bibliography of research, exemplary and innovative program projects, and curriculum development projects assisted with funds made available under this Act since July 1, 1970; and

(F) work with States, local educational agencies, and other public agencies in developing methods of evaluating programs, including the follow-up studies of program completers and leavers required by section 112, so that these agencies can offer job training programs which are more closely related to the types of jobs available in their communities, regions, and States; and

(3) training and development programs as described in section 172.

(b) (1) The Commissioner shall not make a grant pursuant to paragraph (1) of subsection (a) unless the applicant can demonstrate a reasonable probability that such grant will result in improved teaching techniques or curriculum materials that will be used in a substantial number of classrooms or other learning situations within five years after the termination of such grant.

(2) Every contract made by the Commissioner for the purpose of funding exemplary and innovative projects pursuant to paragraph (1) of subsection (a) shall, to the extent consistent with the number of students enrolled in nonprofit private schools in the area to be served whose educational needs are of the type which the project involved is to meet, provide for the participation of such students; and such contract shall also provide that the Federal funds will not be commingled with State or local funds;

(3) The Commissioner shall, from the funds made available to him under this section, make contracts to convert to use in local educational agencies, in private nonprofit schools, and in other public agencies, curriculum materials involving job preparation which have been prepared for use by the armed services of the United States.

(4) There is hereby established a Coordinating Committee on Research in Vocational Education within the Education Division of the Department of Health, Education, and Welfare which shall be composed of the Director of the National Institute of Education, the Commissioner, and the Director of the Fund for the Improvement of Postsecondary Education, or their representatives. This Committee shall—

(A) develop a plan for fiscal year (i) establishing national priorities for the use of funds available to these agencies for vocational education research, career education research, education and work research, development, exemplary and innovative program projects, and curriculum development projects; and (ii) coordinating the efforts of these agencies in seeking to achieve these national priorities in order to avoid duplication of effort; and

(B) develop an effective management information system on the projects funded pursuant to this plan in order to achieve the the best possible monitoring and evaluation of these projects and the widest possible dissemination of their results.

(5) (A) From the sums reserved to the Commissioner under section 103 for this part, the Commissioner may pay all or part of the costs of contracts and grants authorized by this section.

(B) Funds reserved for contracts and grants under this section shall be available for expenditure until expended; unless a law is enacted in specific restriction of this subsection; and these funds may be used for contracts and grants for a period not to exceed three fiscal years.

TRAINING AND DEVELOPMENT PROGRAMS FOR VOCATIONAL EDUCATION PERSONNEL

SEC. 172. (a) From funds available to him under section 103, the Commissioner shall provide (1) opportunities for experienced vocational educators to spend full time in advanced study of vocational

education for a period not to exceed three years in length; (2) opportunities for certified teachers who have been trained to teach in other fields to become vocational educators, if those teachers have skills and experience in vocational fields for which they can be trained to be vocational educators; and (3) opportunities for persons in industry who have skills and experience in vocational fields for which there is a need for vocational educators, but who do not necessarily have baccalaureate degrees, to become vocational educators.

(b) (1) In order to meet the needs in all States for qualified vocational education personnel (such as administrators, supervisors, teacher educators, researchers, guidance and counseling personnel, and instructors in vocational education programs) the Commissioner shall make available leadership development awards in accordance with the provisions of this subsection only upon determination that—

(A) persons selected for awards have had not less than two years of experience in vocational education or in industrial training, or military technical training; or, in the case of researchers, experience in social science research which is applicable to vocational education;

(B) persons receiving such awards are currently employed or are reasonably assured of employment in vocational education and have successfully completed, as a minimum, a baccalaureate degree program; and

(C) persons selected are recommended by their employer, or others, as having leadership potential in the field of vocational education and are eligible for admission as a graduate student to a program of higher education approved by the Commission under paragraph (2).

(2) (A) The Commissioner shall, for a period not to exceed three years, pay to persons selected for leadership development awards such stipends (including such allowances or subsistence and other expenses for such persons and their dependents) as he may determine to be consistent with prevailing practices under comparable federally supported programs.

(B) The Commissioner shall, in addition to the stipends paid to persons under subparagraph (A), pay to the institution of higher education at which such person is pursuing his course of study such amount as the Commissioner may determine to be consistent with the prevailing practices under comparable federally supported programs not to exceed the equivalent of $4,500 per person per academic year or its equivalent, or $1,000 per person per summer session or its equivalent, but any amount charged such person for tuition and nonrefundable fees and deposits shall be deducted from the amount payable to the institution of higher education under this subsection. Any funds from grants received under this paragraph which remain after deducting normal tuition fees, and deposits attributable to such students, shall be used by the institution receiving such funds for the purpose of improving the program of vocational education offered by that institution.

(3) The Commissioner shall approve the vocational education leadership development program of an institution of higher education only upon finding that—

(A) the institution offers a comprehensive program in vocational education with adequate supporting services and disciplines such as education administration, guidance and counseling, research, and curriculum development;

(B) such program is designed to further substantially the objective of improving vocational education through providing opportunities for graduate training of vocational education teachers, supervisors, and administrators, and of university level vocational education teacher educators and researchers; and

(C) such programs are conducted by a school of graduate study in the institution of higher education.

(4) In order to meet the needs for qualified vocational education personnel such as teachers, administrators, supervisors, and teacher educators, in vocational education programs in all the States, the Commissioner in carrying out this section shall apportion leadership development awards equitably among the States, taking into account such factors as the State's vocational education enrollments, and the incidence of youth unemployment and school dropouts in the State.

(5) Persons receiving leadership awards under the provisions of this subsection shall continue to receive the payments provided in paragraph (3) only during such periods as the Commissioner finds that they are maintaining satisfactory proficiency in, and devoting essentially full time, to study or research in the field of vocational education in an institution of higher education, and are not engaging in gainful employment, other than part-time employment by such institution in teaching, research, or similar activities, approved by the Commissioner.

(6) From the funds reserved to the Commissioner pursuant to section 103 for this part, the Commissioner shall make awards meeting the requirements of paragraphs (1) through (5) of this subsection.

(7) In approving training and development programs for vocational education personnel, the Commissioner shall give special consideration to programs which are designed to familiarize awardees with new curricular materials in vocational education.

(8) For purposes of this subsection, the term "institution of higher education" means any such institution as defined under section 1201(a) of the Higher Education Act of 1965.

(c)(1) In order to meet the need to provide adequate numbers of teachers and related classroom instructors in vocational education and in order to take full advantage of the education which has been provided to already certified teachers who are unable to find employment in their fields of training and of individuals employed in industry who have skills and experiences in vocational fields, the Commissioner shall make available fellowships in accordance with the provisions of this subsection to such individuals upon his determination that—

(A) individuals selected for such fellowships are presently certified, or had been so certified within the last ten years, by a State as teachers in elementary and secondary schools or in community or junior colleges, and have past or current skills and experiences in vocational fields for which they can be trained to be vocational educators; or

(B) individuals selected for such fellowships are individuals employed in industry (who need not be baccalaureate degree

holders) who have skills and experiences in vocational fields for which there is a need for vocational educators, and that individuals receiving such awards have been accepted by a teacher training institution in a program to assist those persons in gaining the skills to become a vocational educator.

(2)(A) The Commissioner shall, for a period not to exceed two years, pay to persons selected for fellowships under this subsection stipends (including such allowances for subsistence and other expenses for such persons and their dependents) as he may determine to be consistent with prevailing practices under comparable federally supported programs.

(B) The Commissioner shall, in addition to the stipends paid to persons under paragraph (1), pay to the institution of higher education at which such person is pursuing his course of study such amount as the Commissioner may determine to be consistent with the prevailing practices under comparable federally supported programs not to exceed the equivalent of $4,500 per person per academic year or its equivalent, and $1,000 per person per summer session or its equivalent, but any amount charged such person for tuition and nonrefundable fees and deposits shall be deducted from the amount payable to the institution of higher education under this subsection. Any funds from grants received under this paragraph which remain after deducting normal tuition, fees, and deposits attributable to such students, shall be used by the institution receiving such funds for the purpose of improving the program of vocational education offered by that institution.

(3) The Commissioner shall approve the program at an institution of higher education which has as its purpose assisting certified teachers or assisting persons from industry in becoming vocational education teachers only upon finding that—

(A) the institution offers a comprehensive program in vocational education with adequate supporting services and disciplines such as education administration, guidance and counseling, research, and curriculum development; and

(B) such program is available to persons receiving these fellowships so that they can receive the same type of education and training being offered in the institution for undergraduate students who are preparing to become vocational education teachers.

(4) In order to meet the needs for qualified vocational education teachers in vocational education programs in all the States, the Commissioner in carrying out this subsection shall apportion fellowships equitably among the States, taking into account such factors as the State's vocational education enrollments, and the incidence of youth unemployment and school dropouts in the State.

(5) Persons receiving fellowships under the provisions of this subsection shall continue to receive the payments provided in paragraph (2) only during such periods as the Commissioner finds that they are maintaining satisfactory proficiency in, and devoting essentially full time to study or research in the field of vocational education in an institution of higher education, and are not engaging

14-064 O - 83 - 9

in gainful employment, other than part-time employment by such institution in teaching, research, or similar activities, approved by the Commissioner.

(6) From the funds reserved to the Commissioner pursuant to section 103 for this part, the Commissioner shall make awards meeting the requirements of paragraphs (1) through (5) of this subsection.

(7) In carrying out this subsection, the Commissioner shall, before the beginning of each fiscal year, publish a listing of the areas of teaching in vocational education which are presently in need of additional personnel and of the areas which will have need of additional personnel in the future; and the Commissioner shall, in making the fellowships, to the maximum degree possible, to persons who are seeking to become teachers in the areas identified by the Commissioner as needing additional teachers.

Subpart 3—Bilingual Vocational Training

STATEMENT OF FINDINGS

SEC. 181. The Congress hereby finds that one of the most acute problems in the United States is that which involves millions of citizens, both children and adults, whose efforts to profit from vocational education are severely restricted by their limited English-speaking ability because they came from environments where the dominant language is other than English; that such persons are therefore unable to help to fill the critical need for more and better educated personnel in vital occupational categories; and such persons are unable to make their maximum contribution to the Nation's economy and must, in fact, suffer the hardships of unemployment or underemployment. The Congress further finds that there is a critical shortage of instructors possessing both the job knowledge and skills and the dual language capabilities required for adequate vocational instruction of such language-handicapped persons and to prepare such persons to perform adequately in a work environment requiring English language skills, and a corresponding shortage of instructional materials and of instructional methods and techniques suitable for such instruction.

GENERAL RESPONSIBILITIES OF THE COMMISSIONER

SEC. 182. (a) The Commissioner and the Secretary of Labor together shall—

(1) develop and disseminate accurate information on the status of bilingual vocational training in all parts of the United States;

(2) evaluate the impact of such bilingual vocational training on the shortages of well-trained personnel, the unemployment or underemployment of persons with limited English-speaking ability, and the ability of such persons to acquire sufficient job skills and English language skills to contribute fully to the economy of the United States; and

(3) report their findings annually to the President and the Congress.

(b) The Commissioner shall consult with the Secretary of Labor with respect to the administration of this part. Regulations and guidelines promulgated by the Commissioner to carry out this part shall be consistent with those promulgated by the Secretary of Labor pursuant to section 301(b) of the Comprehensive Employment and Training Act of 1973 and shall be approved by the Secretary of Labor before issuance.

AUTHORIZATION OF APPROPRIATIONS

SEC. 183. There are authorized to be appropriated $60,000,000 for the fiscal year ending September 30, 1978, $70,000,000 for the fiscal year ending September 30, 1979, $80,000,000 for the fiscal year ending September 30, 1980, and $90,000,000 for the fiscal year ending September 30, 1981, and $80,000,000 for the fiscal year ending September 30, 1982, to carry out the provisions of sections 184, 186, and 188 of this part, except that 65 per centum of such amounts shall be available only for grants and contracts under section 184, 25 per centum shall be available only for grants and contracts under section 186, and 10 per centum shall be available only for grants and contracts under section 188.

AUTHORIZATION OF GRANTS

SEC. 184. (a) From the sums made available for grants under this section pursuant to section 183, the Commissioner is authorized to make grants to and enter into contracts with appropriate State agencies, local educational agencies, postsecondary education institutions, private nonprofit vocational training institutions, and to other nonprofit organizations especially created to serve a group whose language as normally used is other than English in supplying training in recognized occupations and in new and emerging occupations, which shall include instruction in the English language designed to insure that participants in the training will be assisted to pursue such occupations in environments where English is the language normally used, and to enter into contracts with private for-profit agencies and organizations, to assist them in conducting bilingual vocational training programs for persons of all ages in all communities of the United States which are designed to insure that vocational training programs are available to all individuals who desire and need such bilingual vocational education.

(b) The Commissioner shall pay to each applicant which has an application approved under section 189B an amount equal to the total sums expended by the applicant for the purposes described in section 185 and set forth in that application.

USE OF FEDERAL FUNDS

SEC. 185. Grants and contracts under section 184 may be used, in accordance with applications approved under section 189B, for—

(1) bilingual vocational training programs for persons who have completed or left elementary or secondary school and who are available for education by a postsecondary educational institution;

(2) bilingual vocational training programs for persons who have already entered the labor market and who desire or need training or retraining to achieve year-round employment, adjust to changing manpower needs, expand their range of skills, or advance in employment; and

(3) training allowances for participants in bilingual vocational training programs subject to the same conditions and limitations as set forth in section 111 of the Comprehensive Employment and Training Act of 1973.

AUTHORIZATION OF GRANTS FOR INSTRUCTOR TRAINING PROGRAMS

SEC. 186. (a) From the sums made available for grants and contracts under this section pursuant to section 183, the Commissioner is authorized to make grants to enter into contracts with States or educational institutions, either public or private, to assist them in conducting training for instructors of bilingual vocational training programs, and whenever the Commissioner determines that it will contribute to carrying out the purposes of this part, to make grants to, and enter into contracts with, States or educational institutions either public or private, to assist them in conducting training for instructors in bilingual vocational education programs.

(b) The Commissioner shall pay to each applicant which has an application approved under section 189B an amount equal to the total sums expended by the applicants for the purposes described in section 187 and set forth in that application.

USE OF FEDERAL FUNDS

SEC. 187. Grants and contracts under section 186 may be used in accordance with applications approved under section 189B, for—

(1) providing preservice training designed to prepare persons to participate in bilingual vocational training or vocational education programs as instructors, aides, or other ancillary personnel such as counselors, and service and development programs designed to enable such personnel to continue to improve their qualifications while participating in such programs; and

(2) fellowships or traineeships for persons engaged in such preservice or inservice training.

AUTHORIZATION OF GRANTS FOR DEVELOPMENT OF INSTRUCTIONAL MATERIALS, METHODS, AND TECHNIQUES

SEC. 188. (a) From the sums made available for grants and contracts under this section pursuant to section 183, the Commissioner is authorized to make grants to enter into contracts with States, public and private educational institutions, and to other appropriate nonprofit organizations, and to enter into contracts with private for-profit individuals and organizations, to assist them in developing instructional material, methods, or techniques for bilingual vocational training.

(b) The Commissioner shall pay to each applicant which has an application approved under section 189B an amount equal to the total sums expended by the applicant for the purposes described in section 189 and set forth in that application.

USE OF FEDERAL FUNDS

SEC. 189. Grants and contracts under section 188 may be used, in accordance with applications approved under section 189B, for—

(1) research in bilingual vocational training;

(2) training programs designed to familiarize State agencies and training institutions with research findings and successful pilot and demonstration projects in bilingual vocational training;

(3) experimental, developmental, and pilot programs and projects designed to test the effectiveness of research findings; and

(4) other demonstration and dissemination projects.

APPLICATIONS

SEC. 189A. (a) A grant or contract for assistance under this part may be made only upon application to the Commissioner at such time, in such manner, and containing or accompanied by such information as the Commissioner deems necessary. Each such application shall—

(1) provide that the activities and services for which assistance under this part is sought will be administered by or under the supervision of the applicant;

(2) (A) in the case of assistance under section 184, set forth a program for carrying out the purposes described in section 185,

(B) in the case of assistance under section 186, set forth a program for carrying out the purposes described in section 187, and

(C) in the case of assistance under section 188, set forth a program for carrying out the purposes described in section 189;

(3) in the case of assistance under section 184, set forth a program of such size, scope, and design as will make a substantial contribution toward carrying out the purposes of this part;

(4) in the case of assistance under section 186—

(A) describe the capabilities of the applicant institution, including a listing of the vocational training or vocational educational courses offered by that institution, together with appropriate accreditation by regional or national associations, if any, and approval by appropriate State agencies of the course offered,

(B) set forth the qualifications of the principal staff who will be responsible for the training program, and

(C) contain a statement of the minimum qualifications of the persons to be enrolled in the training program, a description of the selection process for such persons, and the amounts of the fellowships or traineeships, if any, to be granted to persons so enrolled; and

(5) in the case of assistance under section 188, set forth the qualifications of the staff who will be responsible for the program for which assistance is sought.

(b) No grant or contract may be made under section 184 directly to a local educational agency or a postsecondary educational institution or a private vocational training institution or any other eligible agency or organization unless that agency, institution, or organization has submitted the application to the State board established under

section 104 of this Act, or in the case of a State that does not have such a board, the similar State agency, for comment and includes the comment of that board or agency with the application.

APPLICATION APPROVAL BY THE COMMISSIONER

SEC. 189B. (a) The Commissioner may approve an application for assistance under this subpart only if—

(1) the application meets the requirements set forth in subsection (a) of the previous section;

(2) in the case of an application submitted for assistance under section 184 to an agency, institution, or organization other than the State board established under section 104 of this Act, the requirement of subsection (b) of the previous section is met;

(3) in the case of an application submitted for assistance under section 184 or section 186 the Commissioner determines that the program is consistent with criteria established by him, where feasible, after consultation with the State board established under section 104 of this Act, for achieving equitable distribution of assistance under this subpart within that State; and

(4) in the case of an application submitted for assistance under section 186 the Commissioner determines that the applicant institution actually has an ongoing vocational training program in the field for which persons are being trained; and that the applicant institution can provide instructors with adequate language capabilities in the language other than English to be used in the bilingual job training program for which the persons are being trained.

(b) An amendment to an application shall, except as the Commissioner may otherwise provide, be subject to approval in the same manner as the original application.

Subpart 4—Emergency Assistance for Remodeling and Renovation of Vocational Education Facilities

PURPOSE

SEC. 191. It is the purpose of this subpart to provide emergency assistance, for a limited period of time, to local educational agencies in urban and rural areas which are unable to provide vocational education designed to meet today's manpower needs due to the age of their vocational education facilities or the obsolete nature of the equipment used for vocational training, in order to assist such agencies in the modernization of facilities and equipment and the conversion of academic facilities necessary to assure that such facilities will be able to offer vocational education programs which give reasonable promise of employment, including the remodeling and renovation of such facilities to make the facilities comply with the requirements of the Act of August 12, 1968, commonly known as the Architectural Barriers Act of 1968.

AUTHORIZATION OF APPROPRIATIONS

SEC. 192. There are authorized to be appropriated $25,000,000 for fiscal year 1978, $50,000,000 for fiscal year 1979, $75,000,000 for fiscal year 1980, and $100,000,000 for fiscal year 1981, to carry out the purposes of this subpart.

APPLICATIONS

SEC. 193. (a) Any local educational agency desiring to receive assistance under this subpart shall submit to the Commissioner, through its State board, an application therefor, which application shall set forth—

(1) a description of the facility to be remodeled or renovated, including the date of construction of such facility and the extent of reconstruction necessary to enable such facility to provide a modern program of vocational education;

(2) a description of the equipment to be replaced or modernized with the assistance of funds made available under this subpart;

(3) a description of the extent to which the modernization or conversion of facilities and equipment, if assisted with funds made available under this subpart, would be consistent with, and further the goals of, the five-year State plan developed pursuant to section 107;

(4) the financial ability of the local educational agency to undertake such modernization without Federal assistance;

(5) assurances that the facility to be remodeled or renovated will meet standards adopted pursuant to the Act of August 12, 1968;

(6) the extent of State and local funds available to match Federal funds made available under this subpart, together with the sources and amounts of such funds;

(7) such other information as the State board determines to be appropriate; and

(8) such other information as the Commissioner may require by regulation.

(b) In approving applications submitted under this subpart, the Commissioner shall apply only the following criteria:

(1) the need for such assistance, taking into account such factors as—

(A) the age and obsolescence of the facilities and equipment for which emergency modernization assistance is sought,

(B) the rate of youth unemployment in the labor market area served by the local educational agency,

(C) the number of youth aged seventeen through twenty-one residing in the labor market area served by the local educational agency who are unemployed, and

(D) the percentage such youth represent, as compared with the vocational educational enrollment in the local educational agency.

(E) the ability of the facility to comply with the standards adopted pursuant to the Act of August 12, 1968 (42 U.S.C. 4151–4156), commonly known as the Architectural Barriers Act of 1968; and

(2) the degree to which the modernization of facilities and equipment proposed in the application afford promise of achieving the goals set forth in the five-year State plan developed pursuant to section 107.

(c) The Commissioner shall rank all approved applications according to their relative need for assistance and, except as provided in subsection (d), shall pay, from sums appropriated for this part, 75 per centum of the cost of such approved applications, until such appropriations shall be exhausted.

(d) The Commissioner shall consult with the Administrator of General Services and the Architectural and Transportation Barriers Compliance Board to determine whether the proposed remodeling or renovation will meet standards adopted pursuant to the Act of August 12, 1968, commonly known as the Architectural Barriers Act of 1968.

(e) Upon a finding, in writing, that local educational agency with an approved application is suffering from extreme financial need and would not, because of the limitation of Federal financial assistance to 75 per centum of the cost of the approved projects, be able to participate in the program authorized by this subpart, the Commissioner may waive such limitation and may pay the full cost of the approved project.

PAYMENT

SEC. 194. (a) Upon his approval of an application for assistance under this subpart, the Commissioner shall reserve from the appropriation available therefor the amount required for the payment of the Federal share of the cost of such application as determined under subsection (c) or (d) of section 193.

(b) The Commissioner shall pay to the applicant such reserved amount, in advance or by way of reimbursement, and in such installments consistent with established practice, as he may determine.

PART C—DEFINITIONS

DEFINITIONS

SEC. 195. As used in this Act—

(1) The term "vocational education" means organized educational programs which are directly related to the preparation of individuals for paid or unpaid employment, or for additional preparation for a career requiring other than a baccalaureate or advanced degree; and, for purposes of this paragraph, the term "organized education program" means only (A) instruction related to the occupation or occupations for which the students are in training or instruction necessary for students to benefit from such training, and (B) the acquisition, maintenance, and repair of instructional supplies, teaching aids and equipment; and the term "vocational education" does not mean the construction, acquisition or initial equipment of buildings, or the acquisition or rental of land.

(2) The term "area vocational education school" means—

(A) a specialized high school used exclusively or principally for the provision of vocational education to persons who are available for study in preparation for entering the labor market, or

(B) the department of a high school exclusively or principally used for providing vocational education in no less than five different occupational fields to persons who are available for study in preparation for entering the labor market, or

(C) a technical or vocational school used exclusively or principally for the provision of vocational education to persons who have completed or left high school and who are available for study in preparation for entering the labor market, or

(D) the department or division of a junior college or community college or university operating under the policies of the State board and which provides vocational education in no less than five different occupational fields leading to immediate employment but not necessarily leading to a baccalaureate degree, if it is available to all residents of the State or an area of the State designated and approved by the State board, and if, in the case of a school, department, or division described in (C) or (D), if it admits as regular students both persons who have completed high school and persons who have left high school.

(3) The term "school facilities", means classrooms and related facilities (including initial equipment) and interests in lands on which such facilities are constructed. Such term shall not include any facility intended primarily for events for which admission is to be charged to the general public.

(4) The term "construction" includes construction of new buildings and acquisition, and expansion, remodeling, and alteration of existing buildings, and includes site grading and improvement and architect fees.

(5) The term "Commissioner" means the Commissioner of Education.

(6) The term "Secretary" means the Secretary of Health, Education, and Welfare.

(7) The term "handicapped", when applied to persons, means persons who are mentally retarded, hard of hearing, deaf, speech impaired, visually handicapped, seriously emotionally disturbed, orthopedically impaired, or other health impaired persons, or persons with specific learning disabilities, who by reason thereof require special education and related services, and who, because of their handicapping condition, cannot succeed in the regular vocational education program without special education assistance or who require a modified vocational education program.

(8) The term "State" includes, in addition to the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

(9) The term "State board" means a State board designated or created by State law as the sole State agency responsible for the administration of vocational education, or for supervision of the administration of vocational education in the State.

(10) The term "local educational agency" means a board of education or other legally constituted local school authority having administrative control and direction of public elementary or secondary schools in a city, county, township, school district, or political subdivision in a State, or any other public educational institution or agency having administrative control and direction of a vocational education program.

(11) The term "State educational agency" means the State board of education or other agency or officer primarily responsible for the

State supervision of public elementary or secondary schools, or, if there is no such officer or agency, an officer or agency designated by the Governor or by State law.

(12) The term "postsecondary educational institution" means a nonprofit institution legally authorized to provide postsecondary education within a State for persons sixteen years of age or older, who have graduated from or left elementary or secondary school.

(13) The term "eligible recipient" means a local educational agency or a postsecondary educational institution.

(14) The term "National Advisory Council" means the National Advisory Council on Vocational Education continued under section 162.

(15) The term "industrial arts education programs" means those education programs (A) which pertain to the body of related subject matter, or related courses, organized for the development of understanding about all aspects of industry and technology, including learning experiences involving activities such as experimenting, designing, constructing, evaluating, and using tools, machines, materials, and processes and (B) which assist individuals in the making of informed and meaningful occupational choices or which prepare them for entry into advanced trade and industrial or technical education programs.

(16) The term "disadvantaged" means persons (other than handicapped persons who have academic or economic handicaps and who require special services and assistance in order to enable them to succeed in vocational education programs, under criteria developed by the Commissioner based on objective standards and the most recent available data.

(17) The term "low-income family or individual" means such families or individuals who are determined to be low-income according to the latest available data from the Department of Commerce.

(18) The term "cooperative education" means a program of vocational education for persons who, through written cooperative arrangements between the school and employers, receive instruction, including required academic courses and related vocational instruction by alteration of study in school with a job in any occupational field, but these two experiences must be planned and supervised by the school and employers so that each contributes to the student's education and to his or her employability. Work periods and school attendance may be on alternate half days, full days, weeks, or other periods of time in fulfilling the cooperative program.

(19) The term "curriculum materials" means materials consisting of a series of courses to cover instruction in any occupational field which are designed to prepare persons for employment at the entry level or to upgrade occupational competencies of those previously or presently employed in any occupational field.

(20) The term "administration" means activities of a State necessary for the proper and efficient performance of its duties under this Act, including supervision, but not including ancillary services.

(21) The term "private vocational training institution" means a business or trade school, or technical institution or other technical or vocational school, in any State, which (A) admits as regular students only persons who have completed or left elementary or secondary

school and who have the ability to benefit from the training offered by such institution; (B) is legally authorized to provide, and provides within that State, a program of postsecondary vocational or technical education designed to fit individuals for useful employment in recognized occupations; (C) has been in existence for two years or has been specifically accredited by the Commissioner as an institution meeting the other requirements of this subsection; and (D) is accredited (i) by a nationally recognized accrediting agency or association listed by the Commissioner's pursuant to this clause, or (ii) if the Commissioner determines that there is no nationally recognized accrediting agency or association qualified to accredit schools of a particular category, by a State agency listed by the Commissioner pursuant to this clause, or (iii) if the Commissioner determines that there is no nationally recognized or State agency or association qualified to accredit schools of a particular category, by an advisory committee appointed by him and composed of persons specially qualified to evaluate training provided by schools of that category, which committee shall prescribe the standards of content, scope, and quality which must be met by those schools and shall also determine whether particular schools meet those standards. For the purpose of this paragraph, the Commissioner shall publish a list of nationally recognized accrediting agencies or associations and State agencies which he determines to be reliable authority as to the quality of education or training afforded.

OLDER AMERICANS ACT OF 1965, AS AMENDED [1]

TITLE V—COMMUNITY SERVICE EMPLOYMENT FOR OLDER AMERICANS

SHORT TITLE

SEC. 501. This title may be cited as the "Older American Community Service Employment Act".

OLDER AMERICAN COMMUNITY SERVICE EMPLOYMENT PROGRAM

SEC. 502. (a) In order to foster and promote useful part-time opportunities in community service activities for unemployed low-income persons who are fifty-five years old or older, the Secretary of Labor (hereinafter in this title referred to as the "Secretary") is authorized to establish an older American community service employment program.

(b) (1) In order to carry out the provisions of this title, the Secretary is authorized to enter into agreements with public or private nonprofit agencies or organizations, including national organizations, agencies of a State government or a political subdivision of a State (having elected or duly appointed governing officials), or a combination of such political subdivisions, or tribal organizations in order to further the purposes and goals of the program. Such agreements may include provisions for the payment of costs, as provided in subsection (c), of projects developed by such organizations and agencies in cooperation with the Secretary in order to make the program effective or to supplement the program. No payment shall be made by the Secretary toward the cost of any project established or administered by any such organization or agency unless he determines that such project—

(A) will provide employment only for eligible individuals, except for necessary technical, administrative, and supervisory personnel, but such personnel shall, to the fullest extent possible, be recruited from among eligible individuals;

(B) will provide employment for eligible individuals in the community in which such individuals reside, or in nearby communities;

(C) will employ eligible individuals in service related to publicly owned and operated facilities and projects, or projects sponsored by organizations, other than political parties, exempt from taxation under the provisions of section 501(c)(3) of the Internal Revenue Code of 1954, except projects involving the construction, operation, or maintenance of any facility used or to be used as a place for sectarian religious instruction or worship;

[1] As amended through Public Law 97–115.

(D) will contribute to the general welfare of the community;

(E) will provide employment for eligible individuals;

(F) (i) will result in an increase in employment opportunities over those opportunities which would otherwise be available; (ii) will not result in the displacement of currently employed workers (including partial displacement, such as a reduction in the hours of nonovertime work or wages or employment benefits); and (iii) will not impair existing contracts or result in the substitution of Federal funds for other funds in connection with work that would otherwise be performed;

(G) will not employ or continue to employ any eligible individual to perform work the same or substantially the same as that performed by any other person who is on layoff;

(H) will utilize methods of recruitment and selection (including listing of job vacancies with the employment agency operated by any State or political subdivision thereof) which will assure that the maximum number of eligible individuals will have an opportunity to participate in the project;

(I) will include such training as may be necessary to make the most effective use of the skills and talents of those individuals who are participating, and will provide for the payment of the reasonable expenses of individuals being trained, including a reasonable subsistence allowance;

(J) will assure that safe and healthy conditions of work will be provided, and will assure that persons employed in community service jobs assisted under this title shall be paid wages which shall not be lower than whichever is the highest of (i) the minimum wage which would be applicable to the employee under the Fair Labor Standards Act of 1938, if section 6(a)(1) of such Act applied to the participant and if he were not exempt under section 13 thereof, (ii) the State or local minimum wage for the most nearly comparable covered employment, or (iii) the prevailing rates of pay for persons employed in similar public occupations by the same employer;

(K) will be established or administered with the advice of persons competent in the field or service in which employment is being provided, and of persons who are knowledgeable with regard to the needs of older persons;

(L) will authorize pay for necessary transportation costs of eligible individuals which may be incurred in employment in any project funded under this title, in accordance with regulations promulgated by the Secretary;

(M) will assure that, to the extent feasible, such project will serve the needs of minority, Indian, and limited English-speaking eligible individuals in proportion to their numbers in the State; and

(N) will authorize funds to be used, to the extent feasible, to include individuals participating in such project under any State unemployment insurance plan.

(2) The Secretary is authorized to establish, issue, and amend such regulations as may be necessary to effectively carry out the provisions of this title.

(3) The Secretary shall develop alternatives for innovative work modes and provide technical assistance in creating job opportunities through work sharing and other experimental methods to prime sponsors, labor organizations, groups representing business and industry and workers as well as to individual employers, where appropriate.

(4) The Secretary may enter into an agreement with the Administrator of the Environmental Protection Agency to establish a Senior Environmental Employment Corps.

(c)(1) The Secretary is authorized to pay not to exceed 90 per centum of the cost of any project which is the subject of an agreement entered into under subsection (b), except that the Secretary is authorized to pay all of the costs of any such project which is (A) an emergency or disaster project, or (B) a project located in an economically depressed area, as determined by the Secretary in consultation with the Secretary of Commerce and the Director of the Office of Community Services of the Department of Health and Human Services.

(2) The non-Federal share shall be in cash or in kind. In determining the amount of the non-Federal share, the Secretary is authorized to attribute fair market value to services and facilities contributed from non-Federal sources.

(d)(1) Whenever a national organization or other program sponsor conducts a project within a State such organization or program sponsor shall submit to the State agency on aging a description of such project to be conducted in the State, including the location of the project, 30 days prior to undertaking the project, for review and comment according to guidelines the Secretary shall issue to assure efficient and effective coordination of programs under this title.

(2) The Secretary shall review on his own initiative or at the request of any public or private nonprofit agency or organization, or an agency of the State government, the distribution of programs under this title within the State including the distribution between urban and rural areas within the State. For each proposed reallocation of programs within a State, the Secretary shall give notice and opportunity for a hearing on the record by all interested individuals and make a written determination of his findings and decision.

(e)(1) The Secretary, in addition to any other authority contained in this title, shall conduct experimental projects designed to assure second career training and the placement of eligible individuals in employment opportunities with private business concerns. The Secretary shall enter into such agreements with States, public agencies, nonprofit private organizations and private business concerns as may be necessary to conduct the experimental projects authorized by this subsection. The Secretary, from amounts reserved under section 506(a)(1)(B) in any fiscal year, may pay all of the costs of any agreements entered into under the provisions of this subsection. The Secretary shall, to the extent feasible, assure equitable geographic distribution of projects authorized by this subsection.

(2) Not later than 90 days after the date of enactment of the Older Americans Act Amendments of 1981, the Secretary shall issue criteria designed to assure that agreements entered into under paragraph (1) of this subsection—

(A) will involve different kinds of work modes, such as flextime, job sharing, and other arrangements relating to reduced physical exertion; and

(B) will emphasize projects involving second careers and job placement and give consideration to placement in growth industries and in jobs reflecting new technological skills.

(3)(A) The Secretary shall carry out an evaluation of the second career training and job placement projects authorized by this subsection.

(B) The evaluation shall include but not be limited to the projects described in paragraph (2).

(C) The Secretary shall prepare and submit, not later than one year after the enactment of the Older Americans Act Amendments of 1981, to the Congress an interim report describing agreements entered into under paragraph (1) and the design for the evaluation required by this paragraph. The Secretary shall prepare and submit to the President and the Congress a final report on the evaluation required by this paragraph not later than February 1, 1984, together with his findings and such recommendations, including recommendations for additional legislation, as the Secretary deems appropriate.

(D) The Secretary shall make the final report submitted under subparagraph (C) available to interested private business concerns.

(4) For the purpose of this subsection, "eligible individual" means any individual who is 55 years of age or older and who has an income equal to or less than the intermediate level retired couples budget as determined annually by the Bureau of Labor Statistics.

ADMINISTRATION

SEC. 503. (a) In order to effectively carry out the provisions of this title, the Secretary shall, through the Commissioner of the Administration on Aging, consult with the State agency on aging designated under section 305(a)(1) and the appropriate area agencies on aging established under section 305(a)(2) with regard to—

(1) the localities in which community service projects of the type authorized by this title are most needed;

(2) consideration of the employment situations and the type of skills possessed by available local individuals who are eligible to participate; and

(3) potential projects and the number and percentage of eligible individuals in the local population.

(b) If the Secretary determines that to do so would increase job opportunities available to individuals under this title, the Secretary is authorized to coordinate the program assisted under this title with programs authorized under the Emergency Jobs and Unemployment Assistance Act of 1974, the Comprehensive Employment and Training Act, the Community Services Act of 1974, and the Emergency Employment Act of 1971. Appropriations under this Act may not be used to carry out any program under the Emergency Jobs and Unemployment Assistance Act of 1974, the Comprehensive Employment and Training Act, the Community Services Act of 1974, or the Emergency Employment Act of 1971.

(c) In carrying out the provisions of this title, the Secretary is authorized to use, with their consent, the services, equipment, personnel, and facilities of Federal and other agencies with or without reimbursement, and on a similar basis to cooperate with other public and private agencies and instrumentalities in the use of services, equipment, and facilities.

(d) Payments under this title may be made in advance or by way of reimbursement and in such installments as the Secretary may determine.

(e) The Secretary shall not delegate any function of the Secretary under this title to any other department or agency of the Federal Government.

(f) In carrying out the provisions of this title, the Secretary may fund and expand projects concerning the Senior Environmental Employment Corps and energy conservation from sums appropriated under section 508 for such fiscal year.

PARTICIPANTS NOT FEDERAL EMPLOYEES

SEC. 504. (a) Eligible individuals who are employed in any project funded under this title shall not be considered to be Federal employees as a result of such employment and shall not be subject to the provisions of part III of title 5, United States Code.

(b) No contract shall be entered into under this title with a contractor who is, or whose employees are, under State law, exempted from operation of the State workmen's compensation law, generally applicable to employees, unless the contractor shall undertake to provide either through insurance by a recognized carrier, or by self-insurance as authorized by State law, that the persons employed under the contract shall enjoy workmen's compensation coverage equal to that provided by law for covered employment.

INTERAGENCY COOPERATION

SEC. 505. (a) The Secretary shall consult with, and obtain the written views of, the Commissioner of the Administration on Aging prior to the establishment of rules or the establishment of general policy in the administration of this title.

(b) The Secretary shall consult and cooperate with the Director of the Office of Community Services, the Secretary of Health and Human Services, and the heads of other Federal agencies carrying out related programs, in order to achieve optimal coordination with such other programs. In carrying out the provisions of this section, the Secretary shall promote programs or projects of a similar nature. Each Federal agency shall cooperate with the Secretary in disseminating information relating to the availability of assistance under this title and in promoting the identification and interests of individuals eligible for employment in projects assisted under this title.

(c) In administering projects under this title concerning the Senior Environmental Employment Corps and energy conservation, the Secretary shall consult with the Administrator of the Environmental Protection Agency and the Secretary of Energy and shall enter into

an agreement with the Administrator and the Secretary of Energy to coordinate programs conducted by them with such projects.

EQUITABLE DISTRIBUTION OF ASSISTANCE

SEC. 506. (a)(1)(A) Subject to the provisions of paragraph (2), from sums appropriated under this title for each fiscal year, the Secretary shall first reserve such sums as may be necessary for national grants or contracts with public agencies and public or private nonprofit organizations to maintain the level of activities carried on under such grants or contracts at least at the level of such activities supported under this title and under any other provision of Federal law relating to community service employment programs for older Americans in fiscal year 1978. Preference in awarding such grants or contracts shall be given to national organizations of proven ability in providing employment services to older persons under this program and similar programs. The Secretary, in awarding grants and contracts under this section, shall, to the extent feasible, assure an equitable distribution of activities under such grants and contracts, in the aggregate, among the States, taking into account the needs of underserved States.

(B) From sums appropriated under this title for each fiscal year after September 30, 1978, the Secretary shall reserve an amount which is equal to at least 1 per centum but not more than 3 per centum of the amount appropriated in excess of the amount appropriated for fiscal year 1978 for the purpose of entering into agreements under section 502(e), relating to improved transition to private employment.

(2) For each fiscal year in which the sums appropriated under this title exceed the amount appropriated for fiscal year 1978, the Secretary shall reserve not more than 45 per centum of such excess amount for the purpose described in paragraph (1). The Secretary in awarding grants and contracts under such paragraph (1) from such 45 per centum shall, to the extent feasible, assure an equitable distribution of activities under such grants and contracts designed to achieve the allotment among the States described in paragraph (3) of this subsection. The remainder of such excess shall be allotted to the appropriate public agency of each State pursuant to paragraph (3).

(3) The Secretary shall allot to State agency on aging of each State the remainder of the sums appropriated for any fiscal year under section 508 so that each State will receive an amount which bears the same ratio to such remainder as the product of the number of persons aged fifty-five or over in the State and the allotment percentage of such State bears to the sum of the corresponding product for all States, except that (A)) no State shall be allotted less than one-half of 1 per centum of the remainder of the sums appropriated for the fiscal year for which the determination is made, or $100,000, whichever is greater, and (B) Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Virgin Islands, and the Trust Territory of the Pacific Islands shall each be allotted an amount which is not less than one-fourth of 1 per centum of the remainder of the sums appropriated for the fiscal year for which the determination is made, or $50,000, whichever is greater. For the purpose of the exception contained in this paragraph the term "State" does not include Guam,

14-064 O - 83 - 10

American Samoa, the Commonwealth of the Northern Mariana Islands, the Virgin Islands, and the Trust Territory of the Pacific Islands.

(4) For the purpose of this subsection—

(A) the allotment percentage of each State shall be 100 per centum less that percentage which bears the same ratio to 50 per centum as the per capita income of such State bears to the per capita income of the United States, except that (i) the allotment percentage shall in no case be more than 75 per centum or less than 33⅓ per centum, and (ii) the allotment percentage for the District of Columbia, Puerto Rico, Guam, the Virgin Islands, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands shall be 75 per centum;

(B) the number of persons aged fifty-five or over in any State and in all States, and the per capita income in any State and in all States, shall be determined by the Secretary on the basis of the most satisfactory data available to him; and

(C) for the purpose of determining the allotment percentage, the term "United States" means the fifty States and the District of Columbia.

(b) The amount allotted for projects within any State under subsection (a) for any fiscal year which the Secretary determines will not be required for such year shall be reallotted, from time to time and on such dates during such year as the Secretary may fix, to projects within other States in proportion to the original allotments to projects within such States under subsection (a) for such year, but with such proportionate amount for any of such other States being reduced to the extent it exceeds the sum the Secretary estimates that projects within such State need and will be able to use for such year; and the total of such reductions shall be similarly reallotted among the States whose proportionate amounts were not so reduced. Any amount reallotted to a State under this subsection during a year shall be deemed part of its allotment under subsection (a) for such year.

(c) The amount apportioned for projects within each State under subsection (a) shall be apportioned among areas within each such State in an equitable manner, taking into consideration (1) the proportion which eligible individuals in each such area bears to the total number of such individuals, respectively, in that State, and (2) the relative distribution of such individuals residing in rural and urban areas within the State.

DEFINITIONS

SEC. 507. As used in this title—

(1) the term "State" means any of the several States of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, the Commonwealth of the Northern Mariana Islands, Guam, and the Trust Territory of the Pacific Islands;

(2) the term "eligible individual" means an individual who is fifty-five years old or over, who has a low income (including any such individual whose income is not more than 125 per centum

of the poverty guidelines established by the Bureau of Labor Statistics), except that, pursuant to regulations prescribed by the Secretary, any such individual who is sixty years old or over shall have priority for the work opportunities provided for under this title;

(3) the term "community service" means social, health, welfare, and educational services, legal and other counseling services and assistance, including tax counseling and assistance and financial counseling, and library, recreational, and other similar services; conservation, maintenance, or restoration of natural resources; community betterment or beautification; antipollution and environmental quality efforts; weatherization activities; economic development; and such other services essential and necessary to the community as the Secretary, by regulation, may prescribe; and

(4) the term "program" means the older American community service employment program established under this title.

AUTHORIZATION OF APPROPRIATIONS

SEC. 508. (a) There is authorized to be appropriated to carry out this title—

(1) $277,100,000 for fiscal year 1982, $296,500,000 for fiscal year 1983, and $317,300,000 for fiscal year 1984; and

(2) such additional sums as may be necessary for each such fiscal year to enable the Secretary, through programs under this title, to provide for at least 54,200 part-time employment positions for eligible individuals.

For purposes of paragraph (2), "part-time employment position" means an employment position within a workweek of at least 20 hours.

(b) Amounts appropriated under this section for any fiscal year shall be used during the annual period which begins on July 1 of the calendar year immediately following the beginning of such fiscal year and which ends on June 30 of the following calendar year. The Secretary may extend the period during which such amounts may be obligated or expended in the case of a particular organization or agency receiving funds under this title if the Secretary determines that such extension is necessary to ensure the effective use of such funds by such organization or agency. Any such extension shall be for a period of not more than 60 days after the end of such annual period.

INTERNAL REVENUE CODE OF 1954, AS AMENDED

Subtitle A—Income Taxes

CHAPTER 1—NORMAL TAXES AND SURTAXES

PART IV—CREDITS AGAINST TAX

(WIN Tax Credit)[1]

* * * * * * *

[Sec. 40]

SEC. 40. EXPENSES OF WORK INCENTIVE PROGRAMS.

[Sec. 40(a)]

(a) GENERAL RULE.—There shall be allowed, as a credit against the tax imposed by this chapter, the amount determined under subpart C of this part.

[Sec. 40(b)]

(b) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this section and subpart C.

* * * * * * *

Subpart C—Rules for Computing Credit for Expenses of Work Incentive Programs

Sec. 50A. Amount of credit.
Sec. 50B. Definitions, special rules.

[Sec. 50A]

SEC. 50A. AMOUNT OF CREDIT.

[Sec. 50A(a)]

(a) DETERMINATION OF AMOUNT.—

(1) GENERAL RULE.—The amount of the credit allowed by section 40 for the taxable year shall be equal to the sum of—

(A) 50 percent of the first-year work incentive program expenses, and

(B) 25 percent of the second-year work incentive program expenses.

(2) LIMITATION BASED ON AMOUNT OF TAX.—Notwithstanding paragraph (1), the amount of the credit allowed by section 40 for

[1] As amended through Public Law 97-354.

the taxable year shall not exceed the liability for tax for the taxable year.

(3) LIABILITY FOR TAX.—For purposes of paragraph (2), the liability for tax for the taxable year shall be the tax imposed by this chapter for such year, reduced by the sum of the credits allowable under—

(A) section 33 (relating to foreign tax credit),

(B) section 37 (relating to credit for the elderly),

(C) section 38 (relating to investment in certain depreciable property), and

(D) section 41 (relating to contributions to candidates for public office).

For purposes of this paragraph, any tax imposed for the taxable year by section 56 (relating to minimum tax for tax preferences), section 72(m)(5)(B) (relating to 10 percent tax on premature distributions to owner-employees), section 72(q)(1) (relating to 5-percent tax on premature distributions under annuity contracts), section 402(e) (relating to tax on lump sum distributions), section 408(f) (relating to additional tax on income from certain retirement accounts), section 531 (relating to accumulated earnings tax), section 541 (relating to personal holding company tax), or section 1374 (relating to tax on certain capital gains of S corporations), and any additional tax imposed for the taxable year by section 1351(d)(1) (relating to recoveries of foreign expropriation losses), shall not be considered tax imposed by this chapter for such year.

(4) LIMITATION WITH RESPECT TO NONBUSINESS ELIGIBLE EMPLOYEES.—

(A) IN GENERAL.—In the case of any work incentive program expenses paid or incurred by the taxpayer during the taxable year to eligible employees whose services are not performed in connection with a trade or business of the taxpayer—

(i) paragraph (1)(A) shall be applied by substituting "35 percent" for "50 percent",

(ii) subparagraph (B) of paragraph (1) shall not apply, and

(iii) the aggregate amount of such work incentive program expenses which may be taken into account under paragraph (1) for such taxable year may not exceed $12,000.

(B) DEPENDENT CARE CREDIT MAY NOT BE CLAIMED.—No credit shall be allowed under section 44A with respect to any amounts paid or incurred by the taxpayer with respect to which the taxpayer is allowed a credit under section 40.

(C) MARRIED INDIVIDUALS.—In the case of a husband or wife who files a separate return, subparagraph (A) shall be applied by substituting "$6,000" for "$12,000". The preceding sentence shall not apply if the spouse of the taxpayer has no work incentive program expenses described in such subparagraph for the taxable year.

[Sec. 50A(b)]

(b) CARRYBACK AND CARRYOVER OF UNUSED CREDIT.—

(1) ALLOWANCE OF CREDIT.—If the amount of the credit determined under subsection (a)(1) for any taxable year exceeds the limitation provided by subsection (a)(2) for such taxable year (hereinafter in this subsection referred to as "unused credit year"), such success shall be—

(A) a work incentive program credit carryback to each of the 3 taxable years preceding the unused credit year, and

(B) a work incentive program credit carryover to each of the 7 taxable years following the unused credit year,

and shall be added to the amount allowable as a credit by section 40 for such years, except that such excess may be a carryback only to a taxable year beginning after December 31, 1971. The entire amount of the unused credit for an unused credit year shall be carried to the earliest of the 10 taxable years to which (by reason of subparagraphs (A) and (B)) such credit may be carried, and then to each of the other 9 taxable years to the extent that, because of the limitation contained in paragraph (2), such unused credit may not be added for a prior taxable year to which such unused credit may be carried. In the case of an unused credit for an unused credit year ending after December 31, 1973, this paragraph shall be applied by substituting "15" for "7" in subparagraph (B), and by substituting "18" for "10", and "17" for "9" in the second sentence.

(2) LIMITATION.—The amount of the unused credit which may be added under paragraph (1) for any preceding or succeeding taxable year shall not exceed the amount by which the limitation provided by subsection (a)(2) for such taxable year exceeds the sum of—

(A) the credit allowable under subsection (a)(1) for such taxable year, and

(B) the amounts which, by reason of this subsection, are added to the amount allowable for such taxable year and attributable to taxable years preceding the unused credit year.

[Sec. 50B]

SEC. 50B. DEFINITIONS; SPECIAL RULES.

[Sec. 50B(a)]

(a) WORK INCENTIVE PROGRAM EXPENSES.—For purposes of this subpart—

(1) IN GENERAL.—The term "work incentive program expenses" means the amount of wages paid or incurred by the taxpayer for services rendered by eligible employees.

(2) FIRST-YEAR WORK INCENTIVE PROGRAM EXPENSES.—The term "first-year work incentive program expenses" means, with respect

to any eligible employee, work incentive program expenses attributable to service rendered during the one-year period which begins on the day the eligible employee begins work for the taxpayer.

(3) SECOND-YEAR WORK INCENTIVE PROGRAM EXPENSES.—The term "second-year work incentive program expenses" means, with respect to any eligible employee, work incentive program expenses attributable to service rendered during the one-year period which begins on the day after the last day of the one-year period described in paragraph (2).

(4) LIMITATION ON AMOUNT OF WORK INCENTIVE PROGRAM EXPENSES.—The amount of the work incentive program expenses taken into account with respect to any eligible employee for any one-year period described in paragraph (2) or (3) (as the case may be) shall not exceed $6,000.

(5) TERMINATION.—The term "work incentive program expenses" shall not include any amount paid or incurred in any taxable year beginning after December 31, 1981.

[Sec. 50B(b)]

(b) WAGES.—For purposes of subsection (a), the term "wages" means only cash remuneration (including amounts deducted and withheld).

[Sec. 50B(c)]

(c) LIMITATIONS.—

(1) REIMBURSED EXPENSES.—No item shall be taken into account under subsection (a) to the extent that the taxpayer is reimbursed for such item.

(2) GEOGRAPHICAL LIMITATION.—No item shall be taken into account under subsection (a) with respect to any expense paid or incurred by the taxpayer with respect to employment outside the United States.

(3) INELIGIBLE INDIVIDUALS.—No item shall be taken into account under subsection (a) with respect to an individual who—

(A) bears any of the relationships described in paragraphs (1) through (8) of section 152(a) to the taxpayer, or, if the taxpayer is a corporation, to an individual who owns, directly or indirectly, more than 50 percent in value of the outstanding stock of the corporation (determined with the application of section 267(c)).

(B) if the taxpayer is an estate or trust, is a grantor, beneficiary, or fiduciary of the estate or trust, or is an individual who bears any of the relationships described in paragraph (1) through (8) of section 152(a) to a grantor, beneficiary, or fiduciary of the estate or trust, or

(C) is a dependent (described in section 152(a)(9) of the taxpayer, or, if the taxpayer is a corporation, of an individual described in subparagraph (A), or, if the taxpayer is an estate or trust, of a grantor, beneficiary, or fiduciary of the estate or trust.

[Sec. 50B(d)]

(d) SUBCHAPTER S CORPORATIONS.—In case of an electing small business corporation (as defined in section 1371)—

(1) the work incentive program expenses for each taxable year shall be apportioned pro rata among the persons who are shareholders of such corporation on the last day of such taxable year, and

(2) any person to whom any expenses have been apportioned under paragraph (1) shall be treated (for purposes of this subpart) as the taxpayer with respect to such expenses.

[Sec. 50B(e)]

(e) ESTATES AND TRUSTS.—In the case of an estate or trust—

(1) the work incentive program expenses for any taxable year shall be apportioned between the estate or trust and the beneficiaries on the basis of the income of the estate or trust allocable to each, and

(2) any beneficiary to whom any expenses have been apportioned under paragraph (1) shall be treated (for purposes of this subpart) as the taxpayer with respect to such expenses.

[Sec. 50B(f)]

(f) LIMITATIONS WITH RESPECT TO CERTAIN PERSONS.—In the case of—

(1) an organization to which section 593 applies,

(2) a regulated investment company or a real estate investment trust subject to taxation under subchapter M (section 851 and following), and

(3) a cooperative organization described in section 1381(a), rules similar to the rules provided in subsections (e) and (h) of section 46 shall apply under regulations prescribed by the Secretary.

[Sec. 50B(g)]

(g) SPECIAL RULES FOR CONTROLLED GROUPS.—

(1) CONTROLLED GROUP OF CORPORATIONS.—For purposes of this subpart, all employees of all corporations which are members of the same controlled group of corporations shall be treated as employed by a single employer. In any such case, the credit (if any) allowable by section 40 to each such member shall be its proportionate share of the work incentive program expenses giving rise to such credit. For purposes of this subsection, the term "controlled group of corporations" has the meaning given to such term by section 1563(a), except that—

(A) "more than 50 percent" shall be substituted for "at least 80 percent" each place it appears in section 1563(a)(1), and

(B) the determination shall be made without regard to subsections (a)(4) and (e)(3)(C) of section 1563.

(2) EMPLOYEES OF PARTNERSHIPS, PROPRIETORSHIPS, ETC., WHICH ARE UNDER COMMON CONTROL.—For purposes of this subpart, under regulations prescribed by the Secretary—

(A) all employees of trades or business (whether or not incorporated) which are under common control shall be treated as employed by a single employer, and

(B) the credit (if any) allowable by section 40 with respect to each trade or business shall be its proportionate share of the work incentive program expenses giving rise to such credit.

The regulations prescribed under this paragraph shall be based on principles similar to the principles which apply in the case of paragraph (1).

[Sec. 50B(h)]

(h) ELIGIBLE EMPLOYEE.—

(1) ELIGIBLE EMPLOYEE.—For purposes of this subpart the term "eligible employee" means an individual—

(A) who has been certified by the Secretary of Labor or by the appropriate agency of State or local government as—

(i) being eligible for financial assistance under part A of title IV of the Social Security Act and as having continually received such financial assistance during the 90-day period which immediately precedes the date on which such individual is hired by the employer, or

(ii) having been placed in employment under a work incentive program established under section 432(b)(1) of the Social Security Act,

(B) who has been employed by the taxpayer for a period in excess of 30 consecutive days on a substantially full-time basis (except as provided in subsection (i)),

(C) who has not displaced any other individual from employment by the taxpayer, and

(D) who is not a migrant worker.

The term "eligible employee" includes an employee of the taxpayer whose services are not performed in connection with a trade or business of the taxpayer.

(2) MIGRANT WORKER.—For purposes of paragraph (1), the term "migrant worker" means an individual who is employed for services for which the customary period of employment by one employer is less than 30 days if the nature of such services requires that such individual travel from place to place over a short period of time.

[Sec. 50B(i)]

(i) SPECIAL RULES WITH RESPECT TO EMPLOYMENT OF DAY CARE WORKERS.—

(1) ELIGIBLE EMPLOYEE.—An individual who would be an "eligible employee" (as that term is defined for purposes of this section) except for the fact that such an individual's employment is not on a substantially full-time basis, shall be deemed to be an eligible employee as so defined, if such employee's employment is re-

lated to the provision of child day care services and is performed on either a full-time or part-time basis.

(2) ALTERNATIVE COMPUTATION WITH RESPECT TO CHILD DAY CARE SERVICES ELIGIBLE EMPLOYEES PAID FROM FUNDS MADE AVAILABLE UNDER TITLE XX OF THE SOCIAL SECURITY ACT.—The amount of the credit allowed a taxpayer under section 40, as determined under section 50A and the preceding provisions of this section, with respect to work incentive program expenses paid or incurred by him with respect to an eligible employee whose services are performed in connection with a child day care services program conducted by the taxpayer, and with respect to whom the taxpayer is reimbursed (in whole or in part) from funds made available pursuant to section 2007 of the Social Security Act, at the option of the taxpayer shall be equal to 100 percent of the unreimbursed wages paid or incurred by the taxpayer with respect to such employee, but not more than the amount of the limitation in paragraph (4).

(3) UNREIMBURSED WAGES.—For purposes of this subsection, the term "unreimbursed wages" means work incentive program expenses for which the taxpayer was not reimbursed under section 2007 of the Social Security Act or any other grant or program.

(4) LIMITATION.—The amount of the credit, as determined under paragraph (2), with respect to any employee shall not exceed the lesser of—

(A) an amount equal to $6,000 minus the amount of the funds reimbursed to the taxpayer with respect to such employee from funds made available pursuant to section 2007 of the Social Security Act; or

(B) with respect to work incentive program expenses attributable to service rendered—

(i) during the one-year period which begins on the day such employee begins work for the taxpayer, an amount equal to the lesser of—

(I) $3,000, or

(II) 50 percent of the sum of the amount of the unreimbursed wages of such employee and the amount reimbursed to the taxpayer with respect to such employee from funds made available pursuant to section 2007 of the Social Security Act; or

(ii) during the one-year period which begins on the day after the last day of the one-year period described in clause (i), an amount equal to the lesser of—

(I) $1,500, or

(II) 25 percent of the sum of the amount of the unreimbursed wages of such employee and the amount reimbursed to the taxpayer with respect to such employee from funds made available pursuant to section 2007 of the Social Security Act.

[Sec. 50B(j)]

(j) CROSS REFERENCE.—

For application of this subpart to certain acquiring corporations, see section 381(c)(24).

* * * * * * *

(Targeted Jobs Tax Credit)[1]

* * * * * * *

SEC. 44B. CREDIT FOR EMPLOYMENT OF CERTAIN NEW EMPLOYEES.

(a) GENERAL RULE.—At the election of the taxpayer, there shall be allowed, as a credit against the tax imposed by this chapter, the amount determined under subpart D of this part.

(b) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this section and subpart D.

(c) ELECTION.—

(1) TIME FOR MAKING ELECTION.—An election under subsection (a) for any taxable year may be made (or revoked) at any time before the expiration of the 3-year period beginning on the last date prescribed by law for filing the return for such taxable year (determined without regard to extensions).

(2) MANNER OF MAKING ELECTION.—Any election under subsection (a) (or revocation thereof) shall be made in such manner as the Secretary may by regulations prescribe.

* * * * * * *

Subpart D—Rules for Computing Credit for Employment of Certain New Employees

Sec. 51. Amount of credit.
Sec. 52. Special rules.
Sec. 53. Limitation based on amount of tax.

[Sec. 51]

SEC. 51. AMOUNT OF CREDIT.

[Sec. 51(a)]

(a) DETERMINATION OF AMOUNT.—The amount of the credit allowable by section 44B for the taxable year shall be the sum of—

(1) 50 percent of the qualified first-year wages for such year, and

(2) 25 percent of the qualified second-year wages for such year.

[Sec. 51(b)]

(b) QUALIFIED WAGES DEFINED.—For purposes of this subpart—

(1) IN GENERAL.—The term "qualified wages" means the wages paid or incurred by the employer during the taxable year to individuals who are members of a targeted group.

(2) QUALIFIED FIRST-YEAR WAGES.—The term "qualified first-year wages" means, with respect to any individual, qualified wages attributable to service rendered during the 1-year period beginning with the day the individual begins work for the employer (or, in the case of a vocational rehabilitation referral, the day the individual begins work for the employer on or after the beginning of such individual's rehabilitation plan).

(3) QUALIFIED SECOND-YEAR WAGES.—The term "qualified second-year wages" means, with respect to any individual, the quali-

[1] As amended through Public Law 97-448.

fied wages attributable to service rendered during the 1-year period beginning on the day after the last day of the 1-year period with respect to such individual determined under paragraph (2).

(4) ONLY FIRST $6,000 OF WAGES PER YEAR TAKEN INTO ACCOUNT.—The amount of the qualified first-year wages, and the amount of the qualified second-year wages, which may be taken into account with respect to any individual shall not exceed $6,000 per year.

[Sec. 51(c)]

(c) WAGES DEFINED.—For purposes of this subpart—

(1) IN GENERAL.—Except as otherwise provided in this subsection, subsection (d)(8)(D), and subsection (h)(2), the term "wages" has the meaning given to such term by subsection (b) of section 3306 (determined without regard to any dollar limitation contained in such section).

(2) EXCLUSION FOR EMPLOYERS RECEIVING ON-THE-JOB TRAINING PAYMENTS.—The term "wages" shall not include any amounts paid or incurred by an employer for any period to any individual for whom the employer receives federally funded payments for on-the-job training of such individual for such period.

(3) TERMINATION.—The term "wages" shall not include any amount paid or incurred to an individual who begins work for the employer after December 31, 1984.

[Sec. 51(d)]

(d) MEMBERS OF TARGETED GROUPS.—For purposes of this subpart—

(1) IN GENERAL.—An individual is a member of a targeted group if such individual is—

(A) a vocational rehabilitation referral,

(B) an economically disadvantaged youth,

(C) an economically disadvantaged Vietnam-era veteran,

(D) an SSI recipient,

(E) a general assistance recipient,

(F) a youth participating in a cooperative education program,

(G) an economically disadvantaged ex-convict,

(H) an eligible work incentive employee,

(I) an involuntarily terminated CETA employee, or

(J) a qualified summer youth employee.

(2) VOCATIONAL REHABILITATION REFERRAL.—The term "vocation rehabilitation referral" means any individual who is certified by the designated local agency as—

(A) having a physical or mental disability which, for such individual, constitutes or results in a substantial handicap to employment, and

(B) having been referred to the employer upon completion of (or while receiving) rehabilitative services pursuant to—

(i) an individualized written rehabilitation plan under a State plan for vocational rehabilitation services approved under the Rehabilitation Act of 1973, or

(ii) a program of vocational rehabilitation carried out under chapter 31 of title 38, United States Code.

(3) ECONOMICALLY DISADVANTAGED YOUTH.—

(A) IN GENERAL.—The term "economically disadvantaged youth" means any individual who is certified by the designated local agency as—

(i) meeting the age requirements of subparagraph (B), and

(ii) being a member of an economically disadvantaged family (as determined under paragraph (11)).

(B) AGE REQUIREMENTS.—An individual meets the age requirements of this subparagraph if such individual has attained age 18 but not 25 on the hiring date.

(4) VIETNAM VETERAN WHO IS A MEMBER OF AN ECONOMICALLY DISADVANTAGED FAMILY.—The term "Vietnam veteran who is a member of an economically disadvantaged family" means any individual who is certified by the designated local agency as—

(A) (i) having served on active duty (other than active duty for training) in the Armed Forces of the United States for a period of more than 180 days, any part of which occurred after August 4, 1964, and before May 8, 1975, or

(ii) having been discharged or released from active duty in the Armed Forces of the United States for a service-connected disability if any part of such active duty was performed after August 4, 1964, and before May 8, 1975,

(B) not having any day during the preemployment period which was a day of extended active duty in the Armed Forces of the United States, and

(C) being a member of an economically disadvantaged family (determined under paragraph (11)).

For purposes of subparagraph (B), the term "extended active duty" means a period of more than 90 days during which the individual was on active duty (other than active duty for training).

(5) SSI RECIPIENTS.—The term "SSI recipient" means any individual who is certified by the designated local agency as receiving supplemental security income benefits under title XVI of the Social Security Act (including supplemental security income benefits of the type described in section 1616 of such Act or section 212 of Public Law 93–66) for any month ending in the preemployment period.

(6) GENERAL ASSISTANCE RECIPIENTS.—

(A) IN GENERAL.—The term "general assistance recipient" means any individual who is certified by the designated local agency as receiving assistance under a qualified general assistance program for any period of not less than 30 days ending within the preemployment period.

(B) QUALIFIED GENERAL ASSISTANCE PROGRAM.—The term "qualified general assistance program" means any program of a State or a political subdivision of a State—

(i) which provides general assistance or similar assistance which—

(I) is based on need, and

(II) consists of money payments or voucher or scrip, and

(ii) which is designated by the Secretary (after consultation with the Secretary of Health, Education, and Welfare) as meeting the requirements of clause (i).

(7) ECONOMICALLY DISADVANTAGED EX-CONVICT.—The term "economically disadvantaged ex-convict" means any individual who is certified by the designated local agency—

(A) as having been convicted of a felony under any statute of the United States or any State,

(B) as being a member of an economically disadvantaged family (as determined under paragraph (11)), and

(C) as having a hiring date which is not more than 5 years after the last date on which such individual was so convicted or was released from prison.

(8) YOUTH PARTICIPATING IN A QUALIFIED COOPERATIVE EDUCATION PROGRAM.—

(A) IN GENERAL.—The term "youth participating in a qualified cooperative education program" means any individual who is certified by the school participating in the program as—

(i) having attained age 16 and not having attained age 20,

(ii) not having graduated from a high school or vocational school,

(iii) being enrolled in and actively pursuing a qualified cooperative education program, and

(iv) being a member of an economically disadvantaged family (as determined under paragraph (11)).

(B) QUALIFIED COOPERATIVE EDUCATION PROGRAM DEFINED.—The term "qualified cooperative education program" means a program of vocational education for individuals who (through written cooperative arrangements between a qualified school and 1 or more employers) receive instruction (including required academic instruction) by alternation of study and school with a job in any occupational field (but only if these 2 experiences are planned by the school and employer so that each contributes to the student's education and employability).

(C) QUALIFIED SCHOOL DEFINED.—The term "qualified school" means—

(i) a specialized high school used exclusively or principally for the provision of vocational education to individuals who are available for study in preparation for entering the labor market,

(ii) the department of a high school exclusively or principally used for providing vocational education to persons who are available for study in preparation for entering the labor market, or

(iii) a technical or vocational school used exclusively or principally for the provision of vocational education to persons who have completed or left high school and

who are available for study in preparation for entering the labor market.

A school which is not a public school shall be treated as a qualified school only if it is exempt from tax under section 501(a).

(D) WAGES.—In the case of remuneration attributable to services performed while the individual meets the requirements of clauses (i), (ii), and (iii) of subparagraph (A), wages and unemployment insurance wages, shall be determined without regard to section 3306(c)(10)(C).

(9) ELIGIBLE WORK INCENTIVE EMPLOYEES.—The term "eligible work incentive employee" means an individual who has been certified by the designated local agency as—

(A) being eligible for financial assistance under part A of title IV of the Social Security Act and as having continually received such financial assistance during the 90-day period which immediately precedes the date on which such individual is hired by the employer, or

(B) having been placed in employment under a work incentive program established under section 432(b)(1) or 445 of the Social Security Act.

(10) INVOLUNTARILY TERMINATED CETA EMPLOYEE.—The term "involuntarily terminated CETA employee" means an individual who is certified by the designated local agency as having been involuntarily terminated after December 31, 1980, from employment financed in whole or in part under a program under part D of title II or title VI of the Comprehensive Employment and Training Act. This paragraph shall not apply to any individual who begins work for the employer after December 31, 1982.

(11) MEMBERS OF ECONOMICALLY DISADVANTAGED FAMILIES.—An individual is a member of an economically disadvantaged family if the designated local agency determines that such individual was a member of a family which had an income during the 6 months immediately preceding the earlier of the month in which such determination occurs or the month in which the hiring date occurs, which, on an annual basis, would be 70 percent or less of the Bureau of Labor Statistics lower living standard. Any such determination shall be valid for the 45-day period beginning on the date such determination is made.

(12) QUALIFIED SUMMER YOUTH EMPLOYEE.—

(A) IN GENERAL.—The term "qualified summer youth employee" means an individual—

(i) who performs services for the employer between May 1 and September 15,

(ii) who is certified by the designated local agency as having attained age 16 but not 18 on the hiring date (as defined in paragraph (14)),

(iii) who has not been an employee of the employer during any period prior to the 90-day period described in subparagraph (B)(iii), and

(iv) who is certified by the designated local agency as being a member of an economically disadvantaged family (as determined under paragraph (11)).

(B) SPECIAL RULES FOR DETERMINING AMOUNT OF CREDIT.—For purposes of applying this subpart to wages paid or incurred to any qualified summer youth employee—

(i) subsection (a)(1) shall be applied by substituting "85 percent" for "50 percent",

(ii) subsections (a)(2) and (b)(3) shall not apply,

(iii) subsection (b)(2) shall be applied by substituting "any 90-day period between May 1 and September 15" for "the 1-year period beginning with the day the individual begins work for the employer", and

(iv) subsection (b)(4) shall be applied by substituting "$3,000" for "$6,000".

(C) SPECIAL RULE FOR CONTINUED EMPLOYMENT FOR SAME EMPLOYER.—In the case of an individual who, with respect to the same employer, is certified as a member of another targeted group after such individual has been a qualified summer youth employee, paragraph (14) shall be applied by substituting "certified" for "hired by the employer".

(13) PREEMPLOYMENT PERIOD.—The term "preemployment period" means the 60-day period ending on the hiring date.

(14) HIRING DATE.—The term "hiring date" means the day the individual is hired by the employer.

(15) DESIGNATED LOCAL AGENCY.—The term "designated local agency" means a State employment security agency established in accordance with the Act of June 6, 1933, as amended (29 U.S.C. 49–49n).

(16) SPECIAL RULES FOR CERTIFICATIONS.—

(A) IN GENERAL.—An individual shall not be treated as a member of a targeted group unless, on or before the day on which such individual begins work for the employer, the employer—

(i) has received a certification from a designated local agency that such individual is a member of a targeted group, or

(ii) has requested in writing such certification from the designated local agency.

(B) INCORRECT CERTIFICATIONS.—If—

(i) an individual has been certified as a member of a targeted group, and

(ii) such certification is incorrect because it was based on false information provided by such individual,

the certification shall be revoked and wages paid by the employer after the date on which notice of revocation is received by the employer shall not be treated as qualified wages.

[Sec. 51(e)—Repealed.]

[Sec. 51(f)]

(f) REMUNERATION MUST BE FOR TRADE OR BUSINESS EMPLOYMENT.—

(1) IN GENERAL.—For purposes of this subpart, remuneration paid by an employer to an employee during any taxable year shall

be taken into account only if more than one-half of the remuneration so paid is for services performed in a trade or business of the employer.

(2) SPECIAL RULE FOR CERTAIN DETERMINATION.—Any determination as to whether paragraph (1), or subparagraph (A) or (B) of subsection (h)(1), applies with respect to any employee for any taxable year shall be made without regard to subsections (a) and (b) of section 52.

[Sec. 51(g)]

(g) UNITED STATES EMPLOYMENT SERVICE TO NOTIFY EMPLOYERS OF AVAILABILITY OF CREDIT.—The United States Employment Service, in consultation with the Internal Revenue Service, shall take such steps as may be necessary or appropriate to keep employers apprised of the availability of the credit provided by section 44B.

[Sec. 51(h)]

(h) SPECIAL RULES FOR AGRICULTURAL LABOR AND RAILWAY LABOR.—For purposes of this subpart—

(1) UNEMPLOYMENT INSURANCE WAGES.—

(A) AGRICULTURAL LABOR.—If the services performed by any employee for an employer during more than one-half of any pay period (within the meaning of section 3306(d)) taken into account with respect to any year constitute agricultural labor (within the meaning of section 3306(k)), the term "unemployment insurance wages" means, with respect to the remuneration paid by the employer to such employee for such year, an amount equal to so much of such remuneration as constitutes "wages" within the meaning of section 3121(a), except that the contribution and benefit base for each calendar year shall be deemed to be $6,000.

(B) RAILWAY LABOR.—If more than one-half of remuneration paid by an employer to an employee during any year is remuneration for service described in section 3306(c)(9), the term "unemployment insurance wages" means, with respect to such employee for such year, an amount equal to so much of the remuneration paid to such employee during such year which would be subject to contributions under section 8(a) of the Railroad Unemployment Insurance Act (45 U.S.C. 358(a)) if the maximum amount subject to such contributions were $500 per month.

(2) WAGES.—In any case to which subparagraph (A) or (B) of paragraph (1) applies, the term "wages" means unemployment insurance wages (determined without regard to any dollar limitation).

[Sec. 51(i)]

(i) CERTAIN INDIVIDUALS INELIGIBLE.—

(1) RELATED INDIVIDUALS.—No wages shall be taken into account under subsection (a) with respect to an individual who—

(A) bears any of the relationships described in paragraphs

(1) through (8) of section 152(a) to the taxpayer, or, if the taxpayer is a corporation, to an individual who owns, directly or indirectly, more than 50 percent in value of the outstanding stock of the corporation (determined with the application of section 267(c)),

(B) if the taxpayer is an estate or trust, is a grantor, beneficiary, or fiduciary of the estate or trust, or is an individual who bears any of the relationships described in paragraphs (1) through (8) of section 152(a) to a grantor, beneficiary, or fiduciary of the estate or trust, or

(C) is a dependent (described in section 152(a)(9)) of the taxpayer, or, if the taxpayer is a corporation, of an individual described in subparagraph (A), or, if the taxpayer is an estate or trust, of a grantor, beneficiary, or fiduciary of the estate or trust.

(2) NONQUALIFYING REHIRES.—No wages shall be taken into account under subsection (a) with respect to any individual if, prior to the hiring date of such individual, such individual had been employed by the employer at any time during which he was not a member of a targeted group.

[Sec. 52]

SEC. 52. SPECIAL RULES.

[Sec. 52(a)]

(a) CONTROLLED GROUP OF CORPORATIONS.—For purposes of this subpart, all employees of all corporations which are members of the same controlled group of corporations shall be treated as employed by a single employer. In any such case, the credit (if any) allowable by section 44B to each such member shall be its *proportionate share of the wages* giving rise to such credit. For purposes of this subsection, the term "controlled group of corporations" has the meaning given to such term by section 1563(a), except that—

(1) "more than 50 percent" shall be substituted for "at least 80 percent" each place it appears in section 1563(a)(1), and

(2) the determination shall be made without regard to subsections (a)(4) and (e)(3)(C) of section 1563.

[Sec. 52(b)]

(b) EMPLOYEES OF PARTNERSHIPS, PROPRIETORSHIPS, ETC., WHICH ARE UNDER COMMON CONTROL.—For purposes of this subpart, under regulations prescribed by the Secretary—

(1) all employees of trades or business (whether or not incorporated) which are under common control shall be treated as employed by a single employer, and

(2) the credit (if any) allowable by section 44B with respect to each trade or business shall be its *proportionate share of the wages* giving rise to such credit.

The regulations prescribed under this subsection shall be based on principles similar to the principles which apply in the case of subsection (a).

[Sec. 52(c)]

(c) TAX-EXEMPT ORGANIZATIONS.—No credit shall be allowed under section 44B to any organization (other than a cooperative described in section 521) which is exempt from income tax under this chapter.

[Sec. 52(d)]

(d) SUBCHAPTER S CORPORATIONS.—In the case of an electing small business corporation (as defined in section 1371)—

(1) the amount of the credit determined under this subpart for any taxable year shall be apportioned pro rata among the persons who are shareholders of such corporation on the last day of such taxable year, and

(2) any person to whom an amount is apportioned under paragraph (1) shall be allowed, subject to section 53, a credit under section 44B for such amount.

[Sec. 52(e)]

(e) ESTATES AND TRUSTS.—In the case of an estate or trust—

(1) the amount of the credit determined under this subpart for any taxable year shall be apportioned between the estate or trust and the beneficiaries on the basis of the income of the estate or trust allocable to each, and

(2) any beneficiary to whom any amount has been apportioned under paragraph (1) shall be allowed, subject to section 53, a credit under section 44B for such amount.

[Sec. 52(f)]

(f) LIMITATIONS WITH RESPECT TO CERTAIN PERSONS.—Under regulations prescribed by the Secretary, in the case of—

(1) an organization to which section 593 (relating to reserves for losses on loans) applies,

(2) a regulated investment company or a real estate investment trust subject to taxation under subchapter M (851 and following), and

(3) a cooperative organization described in section 1381(a), rules similar to the rules provided in subsections (e) and (h) of section 46 shall apply in determining the amount of the credit under this subpart.

[Sec. 53]

SEC. 53. LIMITATION BASED ON AMOUNT OF TAX.

[Sec. 53(a)]

(a) GENERAL RULE.—Notwithstanding section 51, the amount of the credit allowed by section 44B for the taxable year shall not exceed *90 percent of the excess of the tax imposed by this chapter for the taxable year over* the sum of the credits allowable under—

(1) section 33 (relating to foreign tax credit),

(2) section 37 (relating to credit for the elderly),
(3) section 38 (relating to investment in certain depreciable property),
(4) section 40 (relating to expenses of work incentive programs),
(5) section 41 (relating to contributions to candidates for public office),
(6) section 42 (relating to general tax credit), and
(7) section 44A (relating to expenses for household and dependent care services necessary for gainful employment).

For purposes of this subsection, any tax imposed for the taxable year by section 56 (relating to corporate minimum tax), section 72(m)(5)(B) (relating to 10 percent tax on premature distributions to owner-employees), section 72(q)(1) (relating to 5-percent tax on premature distributions under annuity contracts), section 408(f) (relating to additional tax on income from certain retirement accounts), section 402(e) (relating to tax on lump-sum distributions), section 531 (relating to accumulated earnings tax), section 541 (relating to personal holding company tax), or section 1378 (relating to tax on certain capital gains of subchapter S corporations), and any additional tax imposed for the taxable year by section 1351(d)(1) (relating to recoveries of foreign expropriation losses), shall not be considered tax imposed by this chapter for such year.

[Sec. 53(b)]

(b) CARRYBACK AND CARRYOVER OF UNUSED CREDIT.—
(1) ALLOWANCE OF CREDIT.—If the amount of the credit determined under section 51 for any taxable year exceeds the limitation provided by subsection (a) for such taxable year (hereinafter in this subsection referred to as the "unused credit year"), such excess shall be—
(A) a new employee credit carryback to each of the 3 taxable years preceding the unused credit year, and
(B) a new employee credit carryover to each of the 15 taxable years following the unused credit year,
and shall be added to the amount allowable as a credit by section 44B for such years. If any portion of such excess is a carryback to a taxable year beginning before January 1, 1977, section 44B shall be deemed to have been in effect for such taxable year for purposes of allowing such carryback as a credit under such section. The entire amount of the unused credit for an unused credit year shall be carried to the earliest of the 18 taxable years to which (by reason of subparagraphs (A) and (B)) such credit may be carried, and then to each of the other 17 taxable years to the extent that, because of the limitation contained in paragraph (2), such unused credit may not be added for a prior taxable year to which such unused credit may be carried.
(2) LIMITATION.—The amount of the unused credit which may be added under paragraph (1) for any preceding or succeeding taxable year shall not exceed the amount by which the limitation

provided by subsection (a) for such taxable year exceeds the sum of—

(A) the credit allowable under section 44B for such taxable year, and

(B) the amounts which, by reason of this subsection, are added to the amount allowable for such taxable year and which are attributable to taxable years preceding the unused credit year.

SOCIAL SECURITY ACT, AS AMENDED

* * * * * * *

TITLE IV—GRANTS TO STATES FOR AID AND SERVICES TO NEEDY FAMILIES WITH CHILDREN AND FOR CHILD-WELFARE SERVICES [1]

Part A—Aid to Families With Dependent Children

* * * * * * *

State Plans for Aid and Services to Needy Families With Children

SEC. 402. (a) A State plans for aid and services to needy families with children must—

* * * * * * *

(19) provide—

(A) that every individual, as a condition of eligibility for aid under this part, shall register for manpower services, training, employment, and other employment-related activities (including employment search, not to exceed eight weeks in total in each year) with the Secretary of Labor as provided by regulations issued by him, unless such individual is—

(i) a child who is under age 16 or attending, full-time, an elementary, secondary, or vocational (or technical) school;

(ii) a person who is ill, incapacitated, or of advanced age;

(iii) a person so remote from a work incentive project that his effective participation is precluded;

(iv) a person whose presence in the home is required because of illness or incapacity of another member of the household;

(v) the parent or other relative of a child under the age of six who is personally providing care for the child with only very brief and infrequent absences from the child;

(vi) the parent or other caretaker of a child who is deprived of parental support or care by reason of the death, continued absence from the home, or physical or mental incapacity of a parent, if another adult relative is in the home and not excluded by clause (i), (ii), (iii), or (iv) of this subparagraph (unless he has failed to register as required by this subparagraph, or has been found by the Secretary of Labor to have refused without good cause to participate under a work incentive program or accept employment as described in subparagraph (F) of this paragraph);

(vii) a person who is working not less than 30 hours per week; or

[1] As amended through Public Law 97–300.

(viii) the parent of a child who is deprived of parental support or care by reason of the unemployment of a parent, if the other parent (who is the principal earner, as defined in section 407(d)) is not excluded by the preceding clauses of this subparagraph;

and that any individual referred to in clause (v) shall be advised of his or her option to register, if he or she do desires, pursuant to this paragraph, and shall be informed of the child care services (if any) which will be available to him or her in the event he or she should decide so to register;

(B) that aid to families with dependent children under the plan will not be denied by reason of such registration or the individual's certification to the Secretary of Labor under subparagraph (G) of this paragraph, or by reason of an individual's participation on a project under the program established by section 432(b)(2) or (3);

(C) for arrangements to assure that there will be made a non-Federal contribution to the work incentive programs established by part C by appropriate agencies of the State or private organizations of 10 per centum of the cost of such programs, as specified in section 435(b);

(D) that (i) training incentives authorized under section 434 shall be disregarded in determining the needs of an individual under section 402(a)(7), and (ii) in determining such individual's needs the additional expenses attributable to his participation in a program established by section 432(b) (2) or (3) shall be taken into account;

(E) [Repealed.]

(F) that if (and for such period as is prescribed under joint regulations of the Secretary and the Secretary of Labor) and child, relative or individual has been found by the Secretary of Labor under section 433(g) to have refused without good cause to participate under a work incentive program established by part C with respect to which the Secretary of Labor has determined his participation is consistent with the purposes of such part C, or to have refused without good cause to accept employment in which he is able to engage which is offered through the public employment offices of the State, or is otherwise offered by an employer if the offer of such employer is determined, after notification by him, to be a bona fide offer of employment—

(i) if the relative makes such refusal, such relative's needs shall not be taken into account in making the determination under clause (7), and aid for any dependent child in the family in the form of payments of the type described in section 406(b)(2) (which in such a case shall be without regard to clauses (A) through (E) thereof) or section 408 will be made;

(ii) if the parent who has been designated as the principal earner, for purposes of section 407, makes such refusal, aid will be denied to all members of the family;

(iii) aid with respect to a dependent child will be denied if a child who is the only child receiving aid in the family makes such refusal;

(iv) if there is more than one child receiving aid in the family, aid for any such child will be denied (and his needs will not be taken into account in making the determination under clause (7)) if that child makes such refusal; and

(v) if such individual makes such refusal, such individual's needs shall not be taken into account in making the determination under clause (7);

(G) that the State agency will have in effect a special program which (i) will be administered by a separate administrative unit (which will, to the maximum extent feasible, be located in the same facility as that utilized for the administration of programs established pursuant to section 432(b) (1), (2), or (3)) and the employees of which will, to the maximum extent feasible, perform services only in connection with the administration of such program, (ii) will provide (through arrangements with others or otherwise) for individuals who have been registered pursuant to subparagraph (A) of this paragraph (I) in accordance with the order of priority listed in section 433(a), such health, vocational rehabilitation, counseling, child care, and other social and supportive services as are necessary to enable such individuals to accept employment or receive manpower training provided under section 432(b) (1), (2), or (3), and will, when arrangements have been made to provide necessary supportive services, including child care, certify to the Secretary of Labor those individuals who are ready for employment or training under section 432(b) (1), (2), or (3), (II) such social and supportive services as are necessary to enable such individuals as determined appropriate by the Secretary of Labor actively to engage in other employment-related (including but not limited to employment search) activities, as well as timely payment for necessary employment search expenses, and (III) for a period deemed appropriate by the Secretary of Labor after such an individual accepts employment, such social and supportive services as are reasonable and necessary to enable him to retain such employment, (iii) will participate in the development of operational and employability plans under section 433(b); and (iv) provides for purposes of clause (ii), that, when more than one kind of child care is available, the mother may choose the type, but she may not refuse to accept child care services if they are available; and

(H) that an individual participating in employment search activities shall not be referred to employment opportunities which do not meet the criteria for appropriate work and training to which an individual may otherwise be assigned under section 432(b) (1), (2), or (3);

* * * * * * *

(35) at the option of the State, provide—

(A) that as a condition of eligibility for aid under the State plan of any individual claiming such aid who is required to regis-

ter pursuant to paragraph (19) (A) (or who would be required to register under paragraph (19) (A) but for clause (iii) thereof), including all such individuals or only such groups, types, or classes thereof as the State agency may designate for purposes of this paragraph, such individual will be required to participate in a program of employment search—

(i) beginning at the time he applies for such aid (or an application including his need is filed) and continuing for a period (prescribed by the State) of not more than eight weeks (but this requirement may not be used as a reason for any delay in making a determination of an individual's eligibility for aid or in issuing a payment to or in behalf of any individual who is otherwise eligible for such aid); and

(ii) at such time or times after the close of the period prescribed under clause (i) as the State agency may determine but not to exceed a total of 8 weeks in any 12 consecutive months;

(B) that any individual participating in a program of employment search under this paragraph will be furnished such transportation and other services, or paid (in advance or by way of reimbursement) such amounts to cover transportation costs and other expenses reasonably incurred in meeting requirements imposed on him under this paragraph, as may be necessary to enable such individual to participate in such program; and

(C) that, in the case of an individual who fails without good cause to comply with requirements imposed upon him under this paragraph, the sanctions imposed by paragraph (19) (F) shall be applied in the same manner as if the individual had made a refusal of the type which would cause the provisions of such paragraph (19) (F) to be applied (except that the State may at its option, for purposes of this paragraph, reduce the period for which such sanctions would otherwise be in effect).

(b) The Secretary shall approve any plan which fulfills the conditions specified in subsection (a), except that he shall not approve any plan which imposes as a condition of eligibility for aid to families with dependent children a residence requirement which denies aid with respect to any child residing in the State (1) who has resided in the State for one year immediately preceding the application for such aid, or (2) who was born within one year immediately preceding the application, if the parent or other relative with whom the child is living has resided in the State for one year immediately preceding the birth.

(c) The Secretary shall, on the basis of his review of the reports received from the States under clause (15) of subsection (a), compile such data as he believes necessary and from time to time publish his findings as to the effectiveness of the programs developed and administered by the States under such clause. The Secretary shall annually report to the Congress (with the first such report being made on or before July 1, 1970) on the programs developed and administered by each State under such clause (15).

(d) (1) For purposes of this part, an individual's "income" shall also include, to the extent and under the circumstances prescribed by the

Secretary, an amount (which shall be treated as earned income for purposes of this part) equal to the earned income advance amount (under section 3507(a) of the Internal Revenue Code of 1954) that is (or, upon the filing of an earned income eligibility certificate, would be) payable to such individual.

(2) In any case in which such advance payments for a taxable year made by all employers to an individual under section 3507 of such Code exceed the amount of such individual's earned income credit allowable under section 43 of such Code for such year, so that such individual is liable under section 43(g) of such Code for a tax equal to such excess, such individual's benefit amount must be appropriately adjusted so as to provide payment to such individual of an amount equal to the amount of the benefits lost by such individual on account of such excess advance payments.

(e)(1) The Secretary shall not approve the initial and annually updated advance automatic data processing planning document, referred to in subsection (a)(30), unless he finds that such document, when implemented, will generally carry out the objectives of the statewide management system referred to in such subsection, and such document—

(A) provides for the conduct of, and reflects the results of, requirements analysis studies, which include consideration of the program mission, functions, organization, services, constraints, and current support, of, in, or relating to, such system.

(B) contains a description of the proposed statewide management system, including a description of information flows, input data, and output reports and uses,

(C) sets forth the security and interface requirements to be employed in such statewide management system,

(D) describes the projected resource requirements for staff and other needs, and the resources available or expected to be available to meet such requirements,

(E) includes cost-benefit analyses of each alternative management system, data processing services and equipment, and a cost allocation plan containing the basis for rates, both direct and indirect, to be in effect under such statewide management system,

(F) contains an implementation plan with charts of development events, testing descriptions, proposed acceptance criteria, and backup and fallback procedures to handle possible failure of contingencies, and

(G) contains a summary of proposed improvement of such statewide management system in terms of qualitative and quantitative benefits.

(2)(A) The Secretary shall, on a continuing basis, review, assess, and inspect the planning, design, and operation of, statewide management information systems referred to in section 403(a)(3)(B), with a view to determining whether, and to what extent, such systems meet and continue to meet requirements imposed under such section and the conditions specified under subsection (a)(30) of this section.

(B) If the Secretary finds with respect to any statewide management information system referred to in section 403(a)(3)(B) that there is a failure substantially to comply with criteria, requirements,

and other undertakings, prescribed by the advance automatic data processing planning document theretofore approved by the Secretary with respect to such system, then the Secretary shall suspend his approval of such document until there is no longer any such failure of such system to comply with such criteria, requirements, and other undertakings so prescribed.

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Community Work Experience Programs

Sec. 409. (a)(1) Any State which chooses to do so may establish a community work experience program in accordance with this section. The purpose of the community work experience program is to provide experience and training for individuals not otherwise able to obtain employment, in order to assist them to move into regular employment. Community work experience programs shall be designed to improve the employability of participants through actual work experience and training and to enable individuals employed under community work experience programs to move promptly into regular public or private employment. The facilities of the State public employment offices may be utilized to find employment opportunities for recipients under this program. Community work experience programs shall be limited to projects which serve as a useful public purpose in fields such as health, social service, environmental protection, education, urban and rural development and redevelopment, welfare, recreation, public facilities, public safety, and day care. To the extent possible, the prior training, experience, and skills of a recipient shall be utilized in making appropriate work experience assignments. A community work experience program established under this section shall provide—

(A) appropriate standards for health, safety, and other conditions applicable to the performance of work;

(B) that the program does not result in displacement of persons currently employed, or the filling of established unfilled position vacancies;

(C) reasonable conditions of work, taking into account the geographic region, the residence of the participants, and the proficiency of the participants;

(D) that the participants will not be required, without their consent, to travel an unreasonable distance from their homes or remain away from their homes overnight;

(E) that the maximum number of hours in any month that a participant may be required to work is that number which equals the amount of aid payable with respect to the family of which such individual is a member under the State plan approved under this part, divided by the greater of the Federal or the applicable State minimum wage; and

(F) that provision will be made for transportation and other costs, not in excess of an amount established by the Secretary, reasonably necessary and directly related to participation in the program.

(2) Nothing contained in this section shall be construed as authorizing the payment of aid under this part as compensation for work performed, nor shall a participant be entitled to a salary or to any other work or training expense provided under any other provision of law by reason of his participation in a program under this section.

(3) Nothing in this part C, or in any State plan approved under this part, shall be construed to prevent a State from operating (on such terms and conditions and in such cases the State may find to be necessary or appropriate, whether or not such terms, conditions, and cases are consistent with section 402(a)(19) or part (C)) a community work experience program in accordance with this section.

(b)(1) Each recipient of aid under the plan who is registered under section 402(a)(19) shall participate, upon referral by the State agency, in a community work experience program unless such recipient is currently employed for no fewer than 80 hours a month and is earning an amount not less than the applicable minimum wage for such employment.

(2) In addition to an individual described in paragraph (1), the State agency may also refer, for participation in programs under this section, an individual who would be required to register under section 402(a)(19)(A) but for the exception contained in clause (v) of such section (but only if the child for whom the parent or relative is caring is not under the age of three and child care is available for such child), or in clause (iii) of such section.

(3) The chief executive officer of the State shall provide coordination between a community work experience program operated pursuant to this section, any program of employment search under section 402(a)(35), and the work incentive program operated pursuant to part C so as to insure that job placement will have priority over participation in the community work experience program, and that individuals eligible to participate in more than one such program are not denied aid under the State plan on the grounds of failure to participate in one such program if they are actively and satisfactorily participating in another. The chief executive officer of the State may provide that part-time participation in more than one such program may be required where appropriate.

(c) The provisions of section 402(a)(19)(F) shall apply to any individual referred to a community work experience program who fails to participate in such program in the same manner as they apply to an individual to whom section 402(a)(19) applies.

(d) In the case of any State which makes expenditures in the form described in subsection (a) under its State plan approved under section 402, expenditures for the proper and efficient administration of the State plan, for purposes of section 403(a)(3), may not include the cost of making or acquiring materials or equipment in connection with the work performed under a program referred to in subsection (a) or the cost of supervision of work under such program, and may include only such costs attributable to such programs as are permitted by the Secretary.

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Work Supplementation Program

Sec. 414. (a) It is the purpose of this section to allow a State to institute a work supplementation program under which such State, to the extent such State determines to be appropriate, may make jobs available, on a voluntary basis, as an alternative to aid otherwise provided under the State plan approved under this part.

(b) (1) Notwithstanding the provisions of section 406 or any other provision of law, Federal funds may be paid to a State under this part, subject to the provisions of this section, with respect to expenditures incurred in operating a work supplementation program under this section.

(2) Nothing in this part or part C, or in any State plan approved under this part, shall be construed to prevent a State from operating (on such terms and conditions and in such cases as the State may find to be necessary or appropriate, whether or not such terms, conditions, and cases are consistent with section 402(a)(19) or part C) a work supplementation program in accordance with this section.

(3) Notwithstanding section 402(a)(23) or any other provision of law, a State may adjust the levels of the standards of need under the State plan as the State determines to be necessary and appropriate for carrying out a work supplementation program under this section.

(4) Notwithstanding section 402(a)(1) or any other provision of law, a State operating a work supplementation program under this section may provide that the needs standards in effect in those areas of the State in which such program is in operation may be different from the needs standards in effect in the areas in which such program is not in operation, and such State may provide that the needs standards for categories of recipients of aid may vary among such categories as the State determines to be appropriate on the basis of ability to participate in the work supplementation program.

(5) Notwithstanding any other provision of law, a State may make further adjustments in the amounts of aid paid under the plan to different categories of recipients (as determined under paragraph (4)) in order to offset increases in benefits from needs related programs (other than the State plan approved under this part) as the State determines to be necessary and appropriate to further the purposes of the work supplementation program.

(6) Notwithstanding section 402(a)(8) or any other provision of law, a State operating a work supplementation program under this section may reduce or eliminate the amount of earned income to be disregarded under the State plan as the State determines to be necessary and appropriate to further the purposes of the work supplementation program.

(c) (1) A work supplementation program operated by a State under this section shall provide that any individual who is an eligible individual (as determined under paragraph (2)) may choose to take a supplemented job (as defined in paragraph (3)) to the extent supplemented jobs are available under the program. Payments by the State to individuals or to employers under the program shall be expendi-

tures incurred by the State for aid to families with dependent children, except as limited by subsection (d).

(2) For purposes of this section, an eligible individual is an individual who is in a category which the State determines shall be eligible to participate in the work supplementation program, and who would, at the time of his placement in such job, be eligible for assistance under the State plan if such State did not have a work supplementation program in effect and had not altered its State plan accordingly, as such State plan was in effect in May 1981, or as modified thereafter as required by Federal law.

(3) For purposes of this section, a supplemented job is—

(A) a job position provided to an eligible individual by the State or local agency administering the State plan under this part;

(B) a job position provided to an eligible individual by a public or nonprofit entity for which all or part of the wages are paid by such State or local agency; or

(C) a job position provided to an eligible individual by a proprietary entity involving the provision of child day care services for which all or part of the wages are paid by such State or local agency, but only if such entity does not claim a credit for any part of the wages paid to such eligible individual under section 40 of the Internal Revenue Code of 1954 (relating to credit for expenses of the work incentive program) or section 44B of such Code (relating to credit for employment of certain new employees).

A State may provide or subsidize any job position under the program as such State determines to be appropriate, but acceptance of any such position shall be voluntary.

(d) The amount of the Federal payment to a State under section 403 for any quarter for expenditures incurred in operating a work supplementation program shall not exceed an amount equal to the difference between—

(1) the amount which would have been paid under section 403 to such State for such quarter under the State plan if it did not have a work supplementation program in effect and had not altered its State plan accordingly, as such State plan was in effect in May 1981, or as modified thereafter as required by Federal law; and

(2) the amount paid to such State under section 403 for such quarter exclusive of the amount so paid for such quarter for the work supplementation program.

(e)(1) Nothing in this section shall be construed as requiring a State or local agency administering the State plan to provide employee status to any eligible individual to whom it provides a job position under the work supplementation program, or with respect to whom it provides all or part of the wages paid to such individual by another entity under such program.

(2) Nothing in this section shall be construed as requiring such State or local agency to provide that eligible individuals filling job positions provided by other entities under such program be provided employee status by such entity during the first 13 weeks during which they fill such position.

(3) Wages paid under a work supplementation program shall be considered to be earned income for purposes of any provision of law.

(f) Any work supplementation program operated by a State shall be administered by—

(1) the agency designated to administer or supervise the administration of the State plan under section 402(a)(3); or

(2) the agency (if any) designated to administer the community work experience program under section 409.

(g) Any State which chooses to operate a work supplementation program under this section may choose to provide that any individual who participates in such program, and any child or relative of such individual (or other individual living in the same household as such individual) who would be eligible for aid under the State plan approved under this part if such State did not have a work supplementation program, shall be considered individuals receiving aid under the State plan approved under this part for purposes of eligibility for medical assistance under the State plan approved under title XIX.

(h) No individual receiving a grant under the State plan shall be excused, by reason of the fact that such State has a work supplementation program, from any requirement of this part or part C relating to work requirements.

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Part C—Work Incentive Program for Recipients of Aid Under State Plan Approved Under Part A

Purpose

Sec. 430. The purpose of this part is to require the establishment of a program utilizing all available manpower services, including those authorized under other provisions of law, under which individuals receiving aid to families with dependent children will be furnished incentives, opportunities, and necessary services in order for (1) the employment of such individuals in the regular economy, (2) the training of such individuals for work in the regular economy, and (3) the participation of such individuals in public service employment, thus restoring the families of such individuals to independence and useful roles in their communities. It is expected that the individuals participating in the program established under this part will acquire a sense of dignity, self-worth, and confidence which will flow from being recognized as a wage-earning member of society and that the example of a working adult in these families will have beneficial effects on the children in such families.

Appropriation

Sec. 431. (a) There is hereby authorized to be appropriated to the Secretary of Health, Education, and Welfare for each fiscal year a sum sufficient to carry out the purposes of this part. The Secretary of Health, Education, and Welfare shall transfer to the Secretary of Labor from time to time sufficient amounts, out of the moneys appropriated pursuant to this section, to enable him to carry out such purposes.

(b) Of the amounts expended from funds appropriated pursuant to subsection (a) for any fiscal year (commencing with the fiscal year ending June 30, 1973), not less than 33⅓ per centum thereof shall be expended for carrying out the program of on-the-job training referred to in section 432(b)(1)(B) and for carrying out the program of public service employment referred to in section 432(b)(3).

(c) Of the sums appropriated pursuant to subsection (a) to carry out the provisions of this part of any fiscal year (commencing with the fiscal year ending June 30, 1973), not less than 50 percent shall be allotted among the States in accordance with a formula under which each State receives (from the total available for such allotment) an amount which bears the same ratio to such total as—

(1) in the case of fiscal year ending June 30, 1973, and the fiscal year ending June 30, 1974, the average number of recipients of aid to families with dependent children in such State during the month of January last preceding the commencement of such fiscal year bears to the average number of such recipients during such month in all the States; and

(2) in the case of the fiscal year ending June 30, 1975, or in the case of any fiscal year thereafter, the average number of individuals in such State who, during the month of January last preceding the commencement of such fiscal year, are registered pursuant to section 402(a)(19)(A) bears to the average number of individuals in all States who, during such month, are so registered.

Establishment of Programs

Sec. 432. (a) The Secretary of Labor (hereinafter in this part referred to as the Secretary) shall, in accordance with the provisions of this part, establish work incentive programs (as provided for in subsection (b) of this section) in each State and in each political subdivision of a State in which he determines there is a significant number of individuals who have attained age 16 and are receiving aid to families with dependent children. In other political subdivisions, he shall use his best efforts to provide such programs either within such subdivisions or through the provision of transportation for such persons to political subdivisions of the State in which such programs are established.

(b) Such programs shall include, but shall not be limited to, (1)(A) a program placing as many individuals as is possible in employment, which may include intensive job search services, including participation in group job search activities, and (B) a program utilizing on-the-job training positions for others, (2) a program of institutional and work experience training for those individuals for whom such training is likely to lead to regular employment, and (3) a program of public service employment for individuals for whom a job in the regular economy cannot be found.

(c) In carrying out the purposes of this part the Secretary may make grants to, or enter into agreements with, public or private agencies or organizations (including Indian tribes with respect to Indians on a reservation), except that no such grant or agreement shall be made to or with a private employer for profit or with a private non-

profit employer not organized for a public purpose for purposes of the work experience program established by clause (2) of subsection (b).

(d) In providing the training and employment services and opportunities required by this part, the Secretary of Labor shall, to the maximum extent feasible, assure that such services and opportunities are provided by using all authority available under this or any other Act. In order to assure that the services and opportunities so required are provided, the Secretary of Labor (1) shall assure, when appropriate, that registrants under this part are referred for training and employment services under the Job Training Partnership Act, and (2) may use the funds appropriated under this part to provide programs required by this part through such other Acts to the same extent and under the same conditions (except as regards the Federal matching percentage) as if appropriated under such other Act and, in making use of the programs of other Federal, State, or local agencies (public or private), the Secretary of Labor may reimburse such agencies for services rendered to individuals under this part to the extent that such services and opportunities are not otherwise available on a nonreimbursable basis.

(e) The Secretary shall take appropriate steps to assure that the present level of manpower services available under the authority of other statutes to recipients of aid to families with dependent children is not reduced as a result of programs under this part.

(f)(1) The Secretary of Labor shall utilize the services of each private industry council (as established under the Job Training Partnership Act) to identify and provide advice on the types of jobs available or likely to become available in the service delivery area of such council.

(2) The Secretary shall not conduct, in any area, institutional training under any program established pursuant to subsection (b) of any type which is not related to jobs of the type which are or are likely to become available in such area as determined by the Secretary after taking into account information provided by the private industry council for such area.

Operation of Program

Sec. 433. (a) The Secretary shall provide a program of testing and counseling for all persons certified to him by a State, pursuant to section 402(a)(19)(G), and shall select those persons whom he finds suitable for the programs established by clauses (1) and (2) of section 432(b). Those not so selected shall be deemed suitable for the program established by clause (3) of such section 432(b) unless the Secretary finds that there is good cause for an individual not to participate in such program. The Secretary, in carrying out such program for individuals certified to him under section 402(a)(19)(G), shall accord priority to such individuals in the following order, taking into account employability potential: first, unemployed parents who are the principal earners (as defined in section 407); second, mothers, whether or not required to register pursuant to section 402(a)(19)(A), who volunteer for participation under a work incentive program; third, other mothers, and pregnant women, registered pursuant to section

14-064 O - 83 - 12

402(a)(19)(A), who are under 19 years of age; fourth, dependent children and relatives who have attained age 16 and who are not in school or engaged in work or manpower training; and fifth, all other individuals so certified to him.

(b)(1) For each State the Secretary shall develop jointly with the administrative unit of such State administering the special program referred to in section 402(a)(19)(G) a statewide operational plan.

(2) The statewide operational plan shall prescribe how the work incentive program established by this part will be operated at the local level, and shall indicate (i) for each area within the State the number and type of positions which will be provided for training, for on-the-job training, and for public service employment, (ii) the manner in which the information provided by the private industry council under the Job Training Partnership Act for any such area will be utilized in the operation of such program, and (iii) the particular State agency or administrative unit thereof which will be responsible for each of the various activities and functions to be performed under such program. Any such operational plan for any State must be approved by the Secretary, the administrative unit of such State administering the special program referred to in section 402(a)(19)(G), and the regional joint committee (established pursuant to section 439) for the area in which such State is located.

(3) The Secretary shall develop an employability plan for each suitable person certified to him under section 402(a)(19)(G) which shall describe the education, training, work experience, and orientation which it is determined that such person needs to complete in order to enable him to become self-supporting.

(c) The Secretary shall make maximum use of services available from other Federal and State agencies and, to the extent not otherwise available on a nonreimbursable basis, he may reimburse such agencies for services rendered to persons under this part.

(d) To the extent practicable and where necessary, work incentive programs established by this part shall include, in addition to the regular counseling, testing, referral available through the Federal-State Employment Service System, program orientation, basic education, training in communications and employability skills, work experience, institutional training, on-the-job training, job development, and special job placement and followup services, required to assist participant in securing and retaining employment and securing possibilities for advancement.

(e)(1) In order to develop public service employment under the program established by section 432(b)(3), the Secretary shall enter into agreements with (A) public agencies, (B) private nonprofit organizations established to serve a public purpose, and (C) Indian tribes with respect to Indians on a reservation, under which individuals deemed suitable for participation in such a program will be provided work which serves a useful public purpose and which would not otherwise be performed by regular employees.

(2) Such agreements shall provide—

(A) for the payment by the Secretary to each employer, with respect to public service employment performed by any individual for such employer, or an amount not exceeding 100 percent of the

cost of providing such employment to such individual during the first year of such employment, an amount not exceeding 75 percent of the cost of providing such employment to such individual during the second year of such employment, and an amount not exceeding 50 percent of the cost of providing such employment to such individual during the third year of such employment;

(B) the hourly wage rate and the number of hours per week individuals will be scheduled to work in public service employment for such employer;

(C) that the Secretary will have such access to the premises of the employer as he finds necessary to determine whether such employer is carrying out his obligations under the agreement and this part; and

(D) that the Secretary may terminate any agreement under this subsection at any time.

(3) [Repealed.]

(4) No wage rates provided under any agreement entered into under this subsection shall be lower than the applicable minimum wage for the particular work concerned.

(f) Before entering into a project under section 432(b)(3), the Secretary shall have reasonable assurances that—

(1) appropriate standards for the health, safety, and other conditions applicable to the performance of work and training on such project are established and will be maintained,

(2) such project will not result in the displacement of employed workers,

(3) with respect to such project the conditions of work, training, education, and employment are reasonable in the light of such factors as the type of work, geographical region, and proficiency of the participant,

(4) appropriate workmen's compensation protection is provided to all participants.

(g) Where an individual certified to the Secretary of Labor pursuant to section 402(a)(19)(G) refuses without good cause to accept employment or participate in a project under a program established by this part, the Secretary of Labor shall (after providing opportunity for fair hearing) notify the State agency which certified such individual and submit such other information as he may have with respect to such refusal.

(h) With respect to individuals who are participants in public service employment under the program established by section 432(b)(3), the Secretary shall periodically (but at least once exery six months) review the employment record of each such individual while on such special work project and on the basis of such record and such other information as he may acquire determine whether it would be feasible to place such individual in regular employment or on any of the projects under the programs established by section 432(b)(1) and (2).

(i) In planning for activities under this section, the chief executive officer of each State shall make every effort to coordinate such activities with activities provided by the appropriate private industry council and chief elected official or officials under the Job Training Partnership Act.

Incentive Payment

Sec. 434. (a) The Secretary is authorized to pay to any participant under a program established by section 432(b)(2) an incentive payment of not more than $30 per month, payable in such amounts and at such times as the Secretary prescribes.

(b) The Secretary of Labor is also authorized to pay, to any member of a family participating in manpower training under this part, allowances for transportation and other costs incurred by such member, to the extent such costs are necessary to and directly related to the participation by such member in such training.

Federal Assistance

Sec. 435. (a) Federal assistance under this part shall not exceed 90 per centum of the costs of carrying out this part. Non-Federal contributions may be cash or in kind, fairly evaluated, including but not limited to plant, equipment, and services.

(b) Costs of carrying out this part include costs of training, supervision, materials, administration, incentive payments, transportation, and other items as are authorized by the Secretary, but may not include any reimbursement for time spent by participants in work, training, or other participation in the program.

Period of Enrollment

Sec. 436. (a) The program established by section 432(b)(2) shall be designed by the Secretary so that the average period of enrollment under all projects under such program throughout any area of the United States will not exceed one year.

(b) Services provided under this part may continue to be provided to an individual for such period as the Secretary determines (in accordance with regulations prescribed jointly by him and the Secretary of Health, Education, and Welfare) is necessary to qualify him fully for employment even though his earnings disqualify him from aid under a State plan approved under section 402.

Relocation of Participants

Sec. 437. The Secretary may assist participants to relocate their place of residence when he determines such relocation is necessary in order to enable them to become permanently employable and self-supporting. Such assistance shall be given only to participants who concur in their relocation and who will be employed at their place of relocation at wage rates which will meet at least their full need as determined by the State to which they will be relocated. Assistance under this section shall not exceed the reasonable costs of transportation for participants, their dependents, and their household belongings plus such relocation allowance as the Secretary determines to be reasonable.

Participants Not Federal Employes

Sec. 438. Participants in programs established by this part shall be deemed not to be Federal employees and shall not be subject to the

provisions of laws relating to Federal employment including those relating to hours of work, rates of compensation, leave, unemployment compensation, and Federal employee benefits.

Rules and Regulations

Sec. 439. The Secretary and the Secretary of Health, Education, and Welfare, shall, not later than July 1, 1972, issue regulations to carry out the purposes of this part. Such regulations shall provide for the establishment, jointly by the Secretary and the Secretary of Health, Education, and Welfare, of (1) a national coordination committee the duty of which shall be to establish uniform reporting and similar requirements for the administration of this part, and (2) a regional coordination committee for each region which shall be responsible for review and approval of statewide operational plans developed pursuant to section 433(b).

Annual Report

Sec. 440. The Secretary shall annually report to the Congress (with the first such report being made on or before July 1, 1970) on the work incentive programs established by this part.

Evaluation and Research

Sec. 441. (a) The Secretary shall (jointly with the Secretary of Health, Education, and Welfare) provide for the continuing evaluation of the work incentive programs established by this part, including their effectiveness in achieving stated goals and their impact on other related programs. He also may conduct research regarding ways to increase the effectiveness of such programs. He may, for this purpose, contract for independent evaluations of and research regarding such programs or individual projects under such programs. For purposes of sections 435 and 443, the cost of carrying out this section shall not be regarded as costs of carrying out work incentive programs established by this part. Nothing in this section shall be construed as authorizing the Secretary to enter into any contract with any organization after June 1, 1970, for the dissemination by such organization of information about programs authorized to be carried on under this part.

Technical Assistance for Providers of Employment or Training

Sec. 442. The Secretary is authorized to provide technical assistance to providers of employment or training to enable them to partcipate in the establishment and operation of programs authorized to be established by section 432(b).

Collection of State Share

Sec. 443. If a non-Federal contribution of 10 per centum of the costs of the work incentive programs established by this part is not made in any State (as specified in section 402(a)), the Secretary of Health, Education, and Welfare may withhold any action under section 404 because of the State's failure to comply substantially with a provision required by section 402. If the Secretary of Health, Education, and

Welfare does withhold such action, he shall, after reasonable notice and opportunity for hearing to the appropriate State agency or agencies, withhold any payments to be made to the State under sections 3(a), 403(a), 1003(a), 1403(a), 1603(a), and 1903(a) until the amount so withheld (including any amounts contributed by the State pursuant to the requirement in section 402(a)(19)(C)) equals 10 per centum of the costs of such work incentive programs. Such withholding shall remain in effect until such time as the Secretary has assurances from the State that such 10 per centum will be contributed as required by section 402. Amounts so withheld shall be deemed to have been paid to the State under such sections and shall be paid by the Secretary of Health, Education, and Welfare to the Secretary. Such payment shall be considered a non-Federal contribution for purposes of section 435.

Agreements With Other Agencies Providing Assistance to Families of Unemployed Parents

Sec. 444. (a) The Secretary is authorized to enter into an agreement (in accordance with the succeeding provisions of this section) with any qualified State agency (as described in subsection (b)) under which the program established by the preceding sections of this part C will (except as otherwise provided in this section) be applicable to individuals certified by such State agency in the same manner, to the same extent, and under the same conditions as such program is applicable with respect to individuals certified to the Secretary by a State agency administering or supervising the administration of a State plan approved by the Secretary of Health, Education, and Welfare under part A of this title.

(b) A qualified State agency referred to in subsection (a) is a State agency which is charged with the administration of a program—

(1) the purpose of which is to provide aid or assistance to the families of unemployed parents,

(2) which is not established pursuant to part A of title IV of the Social Security Act,

(3) which is financed entirely from funds appropriated by the Congress, and

(4) none of the financing of which is made available under any program established pursuant to title V of the Economic Opportunity Act.

(c)(1) Any agreement under this section with a qualified State agency shall provide that such agency, will, with respect to all individuals receiving aid or assistance under the program of aid or assistance to families of unemployed parents administered by such agency, comply with the requirements imposed by section 402(a)(19) in the same manner and to the same extent as if (a) such qualified agency were the agency in such State administering or supervising the administration of a State plan approved under part A of this title, and (B) individuals receiving aid or assistance under the program administered by such qualified agency were recipients of aid under a State plan which is so approved.

(2) Any agreement entered into under this section shall remain in effect for such period as may be specified in the agreement by the Secretary and the qualified State agency, except that, whenever the Secretary determines, after reasonable notice and opportunity for hearing to the qualified State agency, that such agency has failed substantially to comply with its obligations under such agreement, the Secretary may suspend operation of the agreement until such time as he is satisfied that the State agency will no longer fail substantially to comply with its obligations under such agreement.

(3) Any such agreement shall further provide that the agreement will be inoperative for any calendar quarter if, for the preceding calendar quarter, the maximum amount of benefits payable under the program of aid or assistance to families of unemployed parents administered by the qualified State agency which is a party to such agreement is lower than the maximum amount of benefits payable under such program for the quarter which ended September 30, 1967.

(d) The Secretary shall, at the request of any qualified State agency referred to in subsection (a) of this section and upon receipt from it of a list of the names of individuals rereferred to the Secretary, furnish to such agency the names of each individual on such list participating in public service employment under section 433(a)(3) whom the Secretary determines should continue to participate in such employment. The Secretary shall not comply with any such request with respect to an individual on such list unless such individual has been certified to the Secretary by such agency under section 402(a)(19)(G) for a period of at least six months.

Work Incentive Demonstration Program

Sec. 445. (a) Notwithstanding any other provision of this part and part A of this title, any State may elect as an alternative to the work incentive program otherwise provided in this part, and subject to the provisions of this section, to operate a work incentive demonstration program for the purpose of demonstrating single agency administration of the work-related objectives of this Act, and to receive payments under the provisions of this section.

(b)(1) Not later than June 30, 1984, the Governor of a State which desires to operate a work incentive demonstration program under this section shall submit to the Secretary of Health and Human Services a letter of application stating such intent. Accompanying the letter of application shall be a State program plan which must—

(A) provide that the agency conducting the demonstration program within the State shall be the single State agency which administers or supervises the administration of the State plan under part A of this title;

(B) provide that all persons eligible for or receiving assistance under the aid to families with dependent children program shall be eligible to participate in, and shall be required to participate in, the work incentive demonstration program, subject to the same criteria for participation in such demonstration program as are in effect under this part and part A during the month before the

month in which the demonstration program commences, but subject to waiver of such criteria as provided under section 1115;

(C) provide that the criteria for participation in the work incentive demonstration program shall be uniform throughout the State;

(D) provide a statement of the objectives which the State expects to meet through operation of a work incentive demonstration program, with emphasis on how the State expects to maximize client placement in nonsubsidized private sector employment;

(E) describe the techniques to be used to achieve the objectives of the work incentive demonstration program, which may include but shall not be limited to: maximum periods of participation, job training, job find clubs, grant diversion to either public or private sector employees, services contracts with State employment services, prime sponsors under the Comprehensive Employment and Training Act of 1973, or private placement agencies, targeted jobs tax credit outreach campaigns, and performance-based placement incentives; and

(F) set forth the format and frequency of reporting of information regarding operation of the work incentive demonstration program.

(2) A State's application to participate in the work incentive demonstration program shall be deemed approved unless the Secretary of Health and Human Services notifies the State in writing of disapproval within forty-five days of the date of application. The Secretary of Health and Human Services shall set forth the reasons for disapproval and provide an opportunity for resubmission of the plan within forty-five days of the receipt of the notice of disapproval. An application shall not be finally disapproved unless the Secretary of Health and Human Services determines that the State's program plan would be less effective than the requirements set forth in this title, other than this section.

(3) The Secretary of Health and Human Services shall furnish copies of approved plans, statistical reports, and evaluation reports to the Secretary of Labor.

(c) Subject to the statement of objectives and description of techniques to be used in implementing its work incentive demonstration program, as set forth in its program plan, a State shall be free to design a program which best addresses its individual needs, makes best use of its available resources, and recognizes its labor market conditions. Other than criteria for participation in the State's work incentive demonstration project, which shall be uniform throughout the State, the components of the program may vary by geographic area or by political subdivision.

(d) A State's work incentive demonstration program, if initially approved, shall be in force for a three-year period. During this period, the State may elect to use up to six months for planning purposes. During such planning period, all requirements of part A and this part C shall remain in full force and effect.

(e) The Secretary of Health and Human Services shall conduct two evaluations of a State's work incentive demonstration program. The

first evaluation shall be conducted at the conclusion of the first twelve months of operation of the demonstration program. The second evaluation shall be conducted at the conclusion of the demonstration program. Both evaluations shall compare placement rates during the demonstration program with placement rates achieved during a number of previous years, to be determined by the Secretary of Health and Human Services.

(f) (1) For each year of its demonstration program, a State which is operating such program shall be funded in an amount equal to its initial annual 1981 allocation under the work incentive program set forth in this part, plus any other Federal funds which the State may properly receive under any statute for establishing work programs for recipients of aid to families with dependent children.

(2) Such funds shall only be used by the State for administering and operating its work incentive demonstration program. These funds shall not be used for direct grants of assistance under the aid to families with dependent children program.

(g) Earnings derived from participation in a State's work incentive demonstration program shall not result in a determination of financial ineligibility for assistance under the aid to families with dependent children program.

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TITLE IX—MISCELLANEOUS PROVISIONS RELATING TO EMPLOYMENT SECURITY [1]

Employment Security Administration Account

ESTABLISHMENT OF ACCOUNT

SEC. 901. (a) There is hereby established in the Unemployment Trust Fund an employment security administration account.

APPROPRIATIONS TO ACCOUNT

(b) (1) There is hereby appropriated to the Unemployment Trust Fund for credit to the employment security administration account, out of any moneys in the Treasury not otherwise appropriated, for the fiscal year ending June 30, 1961, and for each fiscal year thereafter, an amount equal to 100 per centum of the tax (including interest, penalties, and additions to the tax) received during the fiscal year under the Federal Unemployment Tax Act and covered into the Treasury.

(2) The amount appropriated by paragraph (1) shall be transferred at least monthly from the general fund of the Treasury to the Unemployment Trust Fund and credited to the employment security administration account. Each such transfer shall be based on estimates made by the Secretary of the Treasury of the amounts received in the Treasury. Proper adjustments shall be made in the amounts subsequently transferred, to the extent prior estimates (including estimates for the

[1] As amended through Public Law 97-248.

fiscal year ending June 30, 1960) were in excess of or were less than the amounts required to be transferred.

(3) The Secretary of the Treasury is directed to pay from time to time from the employment security administration account into the Treasury, as repayments to the account for refunding internal revenue collections, amounts equal to all refunds made after June 30, 1960, of amounts received as tax under the Federal Unemployment Tax Act (including interest on such refunds).

ADMINISTRATIVE EXPENDITURES

(c) (1) There are hereby authorized to be made available for expenditure out of the employment security administration account for the fiscal year ending June 30, 1971, and for each fiscal year thereafter—

(A) such amounts (not in excess of the applicable limit provided by paragraph (3) and, with respect to clause (ii), not in excess of the limit provided by paragraph (4)) as the Congress may deem appropriate for the purpose of—

(i) assisting the States in the administration of their unemployment compensation laws as provided in title III (including administration pursuant to agreements under any Federal unemployment compensation law),

(ii) the establishment and maintenance of systems of public employment offices in accordance with the Act of June 6, 1933, as amended (29 U.S.C., secs. 49–49n), and

(iii) carrying into effect section 2003 of title 38 of the United States Code;

(B) such amounts (not in excess of the limit provided by paragraph (4) with respect to clause (iii) as the Congress may deem appropriate for the necessary expenses of the Department of Labor for the performance of its functions under—

(i) this title and titles III and XII of this Act,

(ii) the Federal Unemployment Tax Act,

(iii) the provisions of the Act of June 6, 1933, as amended,

(iv) chapter 41 (except section 2003) of title 38 of the United States Code, and

(v) any Federal unemployment compensation law.

The term "necessary expenses" as used in this subparagraph (B) shall include the expense of reimbursing a State for salaries and other expenses of employees of such State temporarily assigned or detailed to duty with the Department of Labor and of paying such employees for travel expenses, transportation of household goods, and per diem in lieu of subsistence while away from their regular duty stations in the State, at rates authorized by law for civilian employees of the Federal Government.

(2) The Secretary of the Treasury is directed to pay from the employment security administration account into the Treasury as miscellaneous receipts the amount estimated by him which will be expended during a three-month period by the Treasury Department for the performance of its functions under—

(A) this title and titles III and XII of this Act, including the expenses of banks for servicing unemployment benefit payment

and clearing accounts which are offset by the maintenance of balances of Treasury funds with such banks,

(B) the Federal Unemployment Tax Act, and

(C) any Federal unemployment compensation law with respect to which responsibility for administration is vested in the Secretary of Labor.

If it subsequently appears that the estimates under this paragraph in any particular period were too high or too low, appropriate adjustments shall be made by the Secretary of the Treasury in future payments.

(3)(A) For purposes of paragraph (1)(A), the limitation on the amount authorized to be made available for any fiscal year after June 30, 1970, is, except as provided in subparagraph (B) and in the second sentence of section 901(f)(3)(A), an amount equal to 95 percent of the amount estimated and set forth in the budget of the United States Government for such fiscal year as the amount by which the net receipts during such year under the Federal Unemployment Tax Act will exceed the amount transferred under section 905(b) during such year to the extended unemployment compensation account.

(B) The limitation established by subparagraph (A) is increased by any unexpended amount retained in the employment security administration account in accordance with section 901(f)(2)(B).

(C) Each estimate of net receipts under this paragraph shall be based upon (i) a tax rate of 0.5 percent in the case of any calendar year for which the rate of tax under section 3301 of the Federal Unemployment Tax Act is 3.2 percent, and (ii) a tax rate of 0.8 percent in the case of any calendar year for which the rate of tax under such section is 3.5 percent.

(4) For purposes of paragraphs (1)(A)(ii) and (1)(B)(iii) the amount authorized to be made available out of the employment security administration account for any fiscal year after June 30, 1972, shall reflect the proportion of the total cost of administering the system of public employment offices in accordance with the Act of June 6, 1933, as amended, and of the necessary expenses of the Department of Labor for the performance of its functions under the provisions of such Act, as the President determines is an appropriate charge to the employment security administration account, and reflects in his annual budget for such year. The President's determination, after consultation with the Secretary, shall take into account such factors as the relationship between employment subject to State laws and the total labor force in the United States, the number of claimants and the number of job applicants, and such other factors as he finds relevant.

ADDITIONAL TAX ATTRIBUTABLE TO REDUCED CREDITS

(d)(1) The Secretary of the Treasury is directed to transfer from the employment security administration account—

(A) To the Federal unemployment account, an amount equal to the amount by which—

(i) 100 per centum of the additional tax received under the Federal Unemployment Tax Act with respect to any State by reason of the reduced credits provisions of section

3302(c)(3) of such Act and covered into the Treasury for the repayment of advances made to the State under section 1201, exceeds

(ii) the amount transferred to the account of such State pursuant to subparagraph (B) of this paragraph.

Any amount transferred pursuant to this subparagraph shall be credited against, and shall operate to reduce, that balance of advances, made under section 1201 to the State, with respect to which employers paid such additional tax.

(B) To the account (in the Unemployment Trust Fund) of the State with respect to which employers paid such additional tax an amount equal to the amount by which such additional tax received and covered into the Treasury exceeds that balance of advances, made under section 1201 to the State, with respect to which employers paid such additional tax.

(2) Transfers under this subsection shall be as of the beginning of the month succeeding the month in which the moneys were credited to the employment security administration account pursuant to subsection (b)(2).

REVOLVING FUND

(e)(1) There is hereby established in the Treasury a revolving fund which shall be available to make the advances authorized by this subsection. There are hereby authorized to be appropriated, without fiscal year limitation, to such revolving fund such amounts as may be necessary for the purposes of this section.

(2) The Secretary of the Treasury is directed to advance from time to time from the revolving fund to the employment security administration account such amounts as may be necessary for the purposes of this section. If the net balance in the employment security administration account as of the beginning of any fiscal year equals 40 percent of the amount of the total appropriation by the Congress out of the employment security administration account for the preceding fiscal year, no advance may be made under this subsection during such fiscal year.

(3) Advances to the employment security administration account made under this subsection shall bear interest until repaid at a rate equal to the average rate of interest (computed as of the end of the calendar month next preceding the date of such advance) borne by all interest-bearing obligations of the United States then forming a part of the public debt; except that where such average rate is not a multiple of one-eighth of 1 per centum, the rate of interest shall be the multiple of one-eighth of 1 per centum next lower than such average rate.

(4) Advances to the employment security administration account made under this subsection, plus interest accrued thereon, shall be repaid by the transfer from time to time, from the employment security administration account to the revolving fund, of such amounts as the Secretary of the Treasury, in consultation with the Secretary of Labor, determines to be available in the employment security administration account for such repayment. Any amount transferred as

a repayment under this paragraph shall be credited against, and shall operate to reduce, any balance of advances (plus accrued interest) repayable under this subsection.

DETERMINATION OF EXCESS AMOUNT TO BE RETAINED IN EMPLOYMENT SECURITY ADMINISTRATION ACCOUNT

(f)(1) The Secretary of the Treasury shall determine as of the close of each fiscal year (beginning with the fiscal year ending June 30, 1961) the excess in the employment security administration account.

(2)(A) Except as provided in subparagraph (B), the excess in the employment security administration account as of the close of any fiscal year is the amount by which the net balance in such account as of such time (after the application of section 902(b) and section 901 (f)(3)(C)) exceeds the net balance in the employment security administration account as of the beginning of that fiscal year (including the fiscal year for which the excess is being computed) for which the net balance was higher than as of the beginning of any other such fiscal year.

(B) With respect to the fiscal years ending June 30, 1970, June 30, 1971, and June 30, 1972, the balance in the employment security administration account at the close of each such fiscal year shall not be considered excess but shall be retained in the account for use as provided in paragraph (1) of subsection (c).

(3)(A) The excess determined as provided in paragraph (2) as of the close of any fiscal year after June 30, 1972, shall be retained (as of the beginning of the succeeding fiscal year) in the employment security administration account until the amount in such account is equal to 40 percent of the amount of the total appropriation by the Congress out of the employment security administration account for the fiscal year for which the excess is determined. Three-eighths of the amount in the employment security administration account as of the beginning of any fiscal year after June 30, 1972, or $150 million, whichever is the lesser, is authorized to be made available for such fiscal year pursuant to subsection (c)(1) for additional costs of administration due to an increase in the rate of insured unemployment for a calendar quarter of at least 15 percent over the rate of insured unemployment for the corresponding calendar quarter in the immediately preceding year.

(B) If the entire amount of the excess determined as provided in paragraph (2) as the close of any fiscal year after June 30, 1972, is not retained in the employment security administration account, there shall be transferred (as of the beginning of the succeeding fiscal year) to the extended unemployment compensation account the balance of such excess or so much thereof as is required to increase the amount in the extended unemployment compensation account to the limit provided in section 905(b)(2).

(C) If as of the close of any fiscal year after June 30, 1972, the amount in the extended unemployment compensation account exceeds the limit provided in section 905(b)(2), such excess shall be transferred to the employment security administration account as of the close of such fiscal year.

(4) For the purposes of this section, the net balance in the employment security administration account as of any time is the amount in such account as of such time reduced by the sum of—

(A) the amount then subject to transfer pursuant to subsection (d), and

(B) the balance of advances (plus interest accrued thereon) then repayable to the revolving fund established by subsection (e).

The net balance in the employment security administration account as of the beginning of any fiscal year shall be determined after the disposition of the excess in such account as of the close of the preceding fiscal year.

FOOD STAMP ACT OF 1977, AS AMENDED[1]

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SECTION 20—WORKFARE

SEC. 20. (a) (1) The Secretary shall permit any political subdivision, in any State, that applies and submits a plan to the Secretary in compliance with guidelines promulgated by the Secretary to operate a workfare program pursuant to which every member of a household participating in the food stamp program who is not exempt by virtue of the provisions of subsection (b) of this section shall accept an offer from such subdivision to perform work on its behalf, or may seek an offer to perform work, in return for compensation consisting of the allotment to which the household is entitled under section 8(a) of this Act, with each hour of such work entitling that household to a portion of its allotment equal in value to 100 per centum of the higher of the applicable State minimum wage or the Federal minimum hourly rate under the Fair Labor Standards Act of 1938.

(2)(A) The Secretary shall promulgate guidelines pursuant to paragraph (1) which, to the maximum extent practicable, enable a political subdivision to design and operate a workfare program under this section which is compatible and consistent with similar workfare programs operated by the subdivision.

(B) A political subdivision may comply with the requirements of this section by operating—

(i) a workfare program pursuant to title IV of the Social Security Act (42 U.S.C. 601 et seq.); or

(ii) any other workfare program which the Secretary determines meets the provisions and protections provided under this section.

(b) The household members who shall be exempt from workfare requirements are those who are (1) mentally or physically unfit; (2) under eighteen years of age; (3) sixty years of age or over; (4) at the option of the operating agency, subject to and currently actively and satisfactorily participating at least twenty hours a week in a work training program under a work registration requirement pursuant to title IV of the Social Security Act; (5) a parent or other member of a household with responsibility for the care of a child under age six or of an incapacitated person; (6) a parent or other caretaker of a child in a household where there is another member who is subject to the requirements of this subsection or is employed full time; (7) a regular participant in a drug addiction or alcoholic treatment and rehabilitation program; or (8) an individual described in section 6(d)(2)(I) or (F) of this Act.

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[1] As amended through Public Law 97-253.

(c) No operating agency shall require any participating member to work in any workfare position to the extent that such work exceeds in value the allotment to which the household is otherwise entitled or that such work, when added to any other hours worked during such week by such member for compensation (in cash or in kind) in any other capacity, exceeds thirty hours a week.

(d) The operating agency shall—

(1) not provide any work that has the effect of replacing or preventing the employment of an individual not participating in the workfare program;

(2) provide the same benefits and working conditions that are provided at the job site to employees performing comparable work for comparable hours; and

(3) reimburse participants for actual costs of transportation and other actual costs all of which are reasonably necessary and directly related to participation in the program but not to exceed $25 in the aggregate per month.

(e) The operating agency may allow a job search period, prior to making workfare assignments, of up to thirty days following a determination of eligibility.

(f) In the event that any person fails to comply with the requirements of this section, neither that person nor the household to which that person belongs shall be eligible to participate in the food stamp program for two months, unless that person or another person in the household satisfies all outstanding workfare obligations prior to the end of the two-month disqualification period.

(g)(1) The Secretary shall pay to each operating agency 50 per centum of all administrative expenses incurred by such agency in operating a workfare program, including reimbursements to participants for work-related expenses as described in subsection (d)(3) of this section.

(2)(A) From 50 per centum of the funds saved from employment related to workfare program operated under this section, the Secretary shall pay to each operating agency an amount not to exceed the administrative expenses described in paragraph (1) for which no reimbursement is provided under such paragraph.

(B) For purposes of subparagraph (A), the term "funds saved from employment related to a workfare program operated under this section" means an amount equal to three times the dollar value of the decrease in allotments issued to households, to the extent that such decrease results from wages received by members of such households for the first month of employment beginning after the date such members commence such employment if such employment commences—

(i) while such members are participating for the first time in a workfare program operated under this section; or

(ii) in the thirty-day period beginning on the date such first participation is terminated.

(3) The Secretary may suspend or cancel some or all of these payments, or may withdraw approval from a political subdivision to operate a workfare program, upon a finding that the subdivision has failed to comply with the workfare requirements.

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